

Decision No. 4784d

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
CITIZENS TRUCK COMPANY, LTD., to )	
sell, and COSTIGAN TRUCKING CO., INC., )	Application No. 33162
to purchase a highway common carrier )	
operating right between Los Angeles )	
and Los Angeles Harbor. )	

O P I N I O N

By Decision No. 12823 in Case No. 1871, the Commission found that Citizens Truck Company, Ltd., a corporation, then known as Citizens Truck Company, was and since May 1, 1917, had been conducting an automotive service as a common carrier of property between Los Angeles and the steamship wharves and docks located in Los Angeles Harbor (Wilmington and San Pedro).<sup>1</sup> By this application Citizens Truck Company, Ltd. and Costigan Trucking Co., Inc. seek an order of the Commission authorizing the former to sell and transfer, and the latter to acquire that operative right. A public hearing thereon was had before Examiner Paul and the matter was submitted.

The profit and loss statement of the Citizens Truck Company, Ltd. covering the year 1951, attached to the application as Exhibit "C" shows gross operating revenues of \$8,814.50 and total operating expenses of \$8,506.25, resulting in a net operating profit of \$308.25.

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By Decision No. 25695, Application No. 18642, Citizens Truck Company, Ltd. was granted a certificate authorizing it to transport shipments of property for The Atchison, Topeka & Santa Fe Ry. Co., between its freight station located at Third Street and Santa Fe Avenue in the City of Los Angeles and its freight station located at 56th Street and Malabar Street in the County of Los Angeles. Counsel for Citizens Truck Company, Ltd. has reported that this operation was discontinued several years ago and suggested that the operative right should be revoked and annulled.

The vice-president of Citizens Truck Company, Ltd. testified that approximately six per cent of that revenue was derived from the operations between Los Angeles and the Los Angeles harbor points.

Costigan Trucking Co., Inc. hereinafter referred to as the buyer, is presently engaged in the transportation of property for-hire in the Los Angeles area under permits issued by the Commission. Its balance sheet statement of May 1, 1952 shows an earned surplus as of January 1, 1952 amounting to approximately \$23,000 and a net profit for the first five months of 1952 of approximately \$8,000. According to Exhibit "A" attached to the application the buyer owns approximately 17 trucks and tractors, four dump trucks and 20 semi-trailers. The agreed price to be paid for the operative right is \$5,000, \$1,000 of which has been paid into escrow and the remainder of \$4,000 to be paid upon the approval of this Commission.

According to the evidence, Thomas E. Marr is the president and general manager, and the owner of all of the outstanding capital stock of the Citizens Truck Company, Ltd. He has become invalided and is unable to continue the management of the affairs and operations of the corporation and is winding up its affairs. All of the assets of the corporation have been disposed of except certain sums of cash and the operative right. The vice-president of the Citizens Truck Company, Ltd. informed the Commission by letter dated January 8, 1952 that it had discontinued business on November 30, 1951 and was dissolved as a corporation on December 22, 1951. According to the evidence there was filed with the Secretary of State on December 28, 1951, a notice of election to dissolve the corporation under the provisions of the Corporation Code.

The application seeking authority to transfer the operative right was filed with the Commission February 23, 1952. The record shows that no business has been conducted by Citizens Truck Company, Ltd. since the filing of the notice of election to dissolve the corporation.

The relatively slight break in the service coupled with the steps taken by the president and general manager to liquidate Citizens Truck Company appear to have been based upon a plan of retirement from all business activities induced by the state of his health and does not indicate an intent to abandon the operative right. In the light of these circumstances it is our judgment, and we so find, that it is not adverse to the public interest to permit the transfer of the operative right as requested. An order therefor will be issued.

O R D E R

Application therefor having been filed, a public hearing held thereon, the Commission being fully informed therein, and having found that the transfer of the operative right as proposed is not adverse to the public interest,

IT IS ORDERED:

(1) That, after the effective date hereof and on or before November 30, 1952, Citizens Truck Company, Ltd. is hereby authorized to transfer to Costigan Trucking Co., Inc. and the

latter may acquire, and thereafter operate thereunder, a prescriptive operative right held by Citizens Truck Company, Ltd. as more particularly defined by Decision No. 12823, dated November 14, 1923 in Case No. 1871 reported in the Commission's Opinions and Orders, Volume 24, CRC 116 at pages 124 and 132 under the name Citizens Truck Company, a corporation.

(2) That the certificate issued to Citizens Truck Company, Ltd. by Decision No. 25695 in Application No. 18642 is hereby revoked and annulled.

(3) That within thirty (30) days after the consummation of the transfer herein authorized, Costigan Trucking Co., Inc. shall notify the Commission in writing of that fact and within that period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect the transfer.

(4) That, within sixty (60) days after the effective date hereof and on not less than five (5) days' notice to the Commission and the public, applicants shall file, in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 21<sup>st</sup> day of October, 1952.

*Richard J. ...*  
 President  
*Julius J. ...*  
*Harold H. ...*  
*Frank ...*  
*Edw. E. Mitchell*  
 Commissioners