

**ORIGINAL**Decision No. 48362

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 Max H. Green dba Mountain Auto Line  
 to sell and Walter G. Mitchell, Jr.  
 to purchase highway common carrier  
 operating rights between San Ber-  
 nardino and San Bernardino Mountain  
 Resort Area.

Application No. 34102

O P I N I O N

By Decision No. 43644, dated December 20, 1949, on Application No. 30728, Max H. Green, an individual doing business as Mountain Auto Line, was granted a certificate of public convenience and necessity authorizing him to establish and operate a highway common carrier service for the transportation of general commodities as a highway common carrier, as that term is defined in Section 213 of the Public Utilities Code, between San Bernardino, on the one hand, and Crestline, Lake Arrowhead, and Big Bear Lake, on the other hand, and intermediate and off-route points, along routes described in said decision, subject to the following restriction:

"When operating over the alternate route, via Victorville and Lucerne Valley, applicant shall not render service to nor from any point intermediate of Lucerne Valley and his terminus in the City of San Bernardino."

By this application Max H. Green seeks authority to sell and transfer to Walter G. Mitchell, Jr., an individual who has joined in this application, the described highway

common carrier operating rights, nine trucks with pickup, refrigerator, or stake bodies, and miscellaneous parts, dock and office equipment, for a total consideration of \$25,000.

It is alleged that the nine trucks have a present market value of \$21,450<sup>(1)</sup>; the miscellaneous parts \$1,918.70; and the dock and office equipment \$1,630.30. A value of \$1.00 is placed on the good will and operating rights. Said figures, totaling \$25,000, are the basis upon which this sale will be consummated.

The terms of sale (agreement dated January 2, 1953, Exhibit A on application) are \$25,000, with interest at six per cent per annum on deferred balances, payable as follows:

- (a) \$5,000 on the effective date of the approval of this agreement and transfer by the Public Utilities Commission of the State of California;
- (b) \$138, together with interest, monthly thereafter for each of the months of November, December, January, February, March and April;
- (c) \$338, together with interest, monthly thereafter for each of the months of May, June, July, August, September and October, the first monthly payment to be made thirty (30) days after the effective date of the approval of this agreement and transfer by said Public Utilities Commission of the State of California, and monthly thereafter until the total balance of said principal, together with interest thereon, is paid.<sup>(2)</sup>

The seller desires to dispose of his operating right because of poor health which prevents him from managing and operating the business.

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(1) The book and original cost of the nine trucks is alleged to be \$26,147.80.

(2) Exhibit A on application.

The purchaser is engaged in the trucking business, with offices in Riverside, California, under the name of Auto Fast Freight. Since 1948 he has held a radial highway common carrier's permit, a highway contract carrier's permit, and a city carrier's permit. His financial condition, as of October 1, 1952, was as follows:

Current assets	\$11,904.18	
Property and equipment	<u>16,474.32</u>	\$28,378.50
Current liabilities		<u>2,528.49</u>
Net worth		\$25,850.01

The application alleges that there are no highway common carriers conducting freight operations in competition with the operations proposed to be transferred. The seller, per Exhibit F on the application, alleges he is not a party to any through routes or joint rates with any other carrier.

The application is not opposed and as it appears that the proposed sale is not adverse to the public interest, it will be granted. A public hearing is not necessary.

The action taken herein shall not be construed to be a finding of value of the property herein authorized to be transferred, nor to be a finding of value of any other property herein mentioned.

Walter G. Mitchell, Jr. is hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate-fixing, for any amount of money in excess of that originally paid to the state as the consideration for the grant of

such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not, in any respect, limited to the number of rights which may be given.

O R D E R

Application having been made, the Commission being fully advised in the premises, and good cause appearing,

IT IS ORDERED:

(1) That Max H. Green, an individual, may sell and transfer on or before April 30, 1953, to Walter G. Mitchell, Jr., an individual, the operating rights and property hereinabove described, said sale and transfer to be made upon the terms and conditions of the agreement of sale filed with this application. Walter G. Mitchell, Jr. is authorized to purchase said operating rights and property and to incur an indebtedness in payment therefor, as set forth in said agreement. In the opinion of the Commission, the money, property, or labor to be procured or paid for through such evidence of indebtedness is reasonably required by Walter G. Mitchell, Jr. for the purposes indicated herein.

(2) That Walter G. Mitchell, Jr. shall operate a highway common carrier service created by Decision No. 43644, on Application No. 30728, upon the terms and conditions set forth in said decision.

(3) That applicants shall file in triplicate and concurrently make effective appropriate tariffs and time schedules

within sixty days from the effective date hereof on not less than one day's notice to the Commission and the public.

(4) That, in the event the authority to sell and purchase is exercised, Walter G. Mitchell, Jr. shall notify the Commission in writing of that fact within thirty days of the effective date of this order.

(5) That the authority herein granted will become effective upon the payment of the minimum fee prescribed by Section 1904 (b) of the Public Utilities Code, which fee is \$25.00.

Dated at San Francisco, California, this 24<sup>th</sup> day of March, 1953.

[Signature]  
President

[Signature]  
James F. Cullen

[Signature]  
Harold P. Auler

[Signature]  
Commissioners

