

ORIGINALDecision No. 51324

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)
 WATER-LAND TRUCK LINES, a corporation,)
 to purchase, and DESERT EXPRESS, a)
 corporation to sell a certificate of) Application No. 36793
 public convenience and necessity)
 authorizing services as a highway)
 common carrier of freight, pursuant)
 to Section 851-853 of the Public)
 Utilities Code.)

O P I N I O N

Desert Express, a corporation, has authority from this Commission to render service as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of freight and express between Los Angeles, on the one hand, and Wilmington and San Pedro, on the other hand, via Harbor Truck Boulevard (now Alameda Street), and for the transportation of freight between Los Angeles and Wilmington via Huntington Park and Long Beach, over Long Beach Boulevard.⁽¹⁾

By the application herein, filed on March 10, 1955, the Commission is requested to authorize Desert Express to sell, and Water-Land Truck Lines to purchase, the above-described operative rights for the sum of \$8,200.00. Of this sum, \$5,262.80

(1) Decision No. 18883, dated October 4, 1927, in Application No. 13929; Decision No. 44478, dated April 20, 1948, in Application No. 29182; Decision No. 45711, dated May 15, 1951, in Application No. 29182, 1st Supplemental; Decision No. 45712, dated May 15, 1951, in Application No. 32002.

is payable in cash when this Commission approves the proposed transfer, and the balance of \$2,937.20 is to be paid by the cancellation of Desert Express's indebtedness in that amount to Water-Land Truck Lines. ⁽²⁾ No property other than the operative rights is to be transferred.

It is alleged in the application that Desert Express is engaged primarily in the transportation of general commodities between the Los Angeles Territory, on the one hand, and Bakersfield and points and places in the Mojave Desert, on the other hand, and between Bakersfield, on the one hand, and points and places in the Mojave Desert, on the other hand.

On behalf of Water-Land it is alleged that it sold the rights involved to Desert Express in 1951; that at that time it was engaged in transporting predominantly interstate truck-load traffic to and from the Los Angeles Harbor; that it sold the rights involved to Desert Express in 1951 because it could not integrate economically its less-than-truck-load intrastate traffic with its interstate traffic moving to or from the harbor area; that since that date there has been a substantial increase in less-than-truck-load intrastate traffic moving between points covered by the certificate herein involved; that this traffic has moved pursuant to the highway contract and radial highway common carrier permits of Water-Land; and that said carrier believes that said harbor certificate is required by it for the proper movement of the intrastate traffic.

(2) By Decision No. 45712 referred to in footnote (1) above Desert Express, the seller herein, acquired the identical rights here involved from Water-Land Truck Lines, the purchaser herein. The application alleges that the seller owes the buyer the sum of \$2,937.00 as a result of that transaction.

Desert Express is a party to joint through rates with Public Freight System pursuant to authority from this Commission (Decision No. 48711, dated June 16, 1953, in Application No. 34290). This carrier operates between the Los Angeles harbor and Los Angeles. Applicant Desert Express alleges that by virtue of the fact that Public Freight System presently provides a service between Los Angeles and the Los Angeles harbor there will be no change in the present interchange of traffic between Desert Express and Public Freight System and Desert Express will continue to interchange the harbor traffic with Public Freight System.

The purchaser appears to be in a sound financial position (Exhibit B in the application), it has approximately 60 tractors and trailers and approximately 160 semitrailers of various sizes plus miscellaneous trucks and equipment (Exhibit D in the application).

Upon the allegations and exhibits in the application herein we find that the proposed sale is not adverse to the public interest. The application 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.

Water-Land Truck Lines, a corporation, 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 as 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 having found that the proposed sale is not adverse to the public interest,

IT IS ORDERED:

(1) That Desert Express, a corporation, may sell and transfer to Water-Land Truck Lines, a corporation, its operating rights hereinabove described for the sum of \$8,200.00 payable in accordance with the provisions of Exhibit A in the application, and Water-Land Truck Lines, a corporation, may acquire said operating rights.

(2) That within thirty days after the consummation of the transfer herein authorized, the purchaser shall notify this Commission in writing of that fact.

(3) That within sixty days after the effective date hereof, and on not less than five days' notice to the Commission and to the public, applicants shall supplement or reissue the tariffs and timotables on file with the Commission naming rates, rules, regulations and schedules governing the common carrier operations

herein involved to show that Desert Express has withdrawn or cancelled, and Water-Land Truck Lines has adopted or established as its own said rates, rules, regulations and schedules.

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

Dated at San Francisco, California,
this 10th day of APRIL, 1955.

John E. Mitchell
President

Justin J. Greiner

Raymond L. Lintner

William J. Hooley

Commissioners