

Decision No. 58505**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
 of JAMES E. POTTER, an individual
 doing business as POTTER TRUCKING
 COMPANY, to sell, and LOM THOMPSON,
 an individual doing business as
 THOMPSON TRUCK LINES, to buy
 operative rights.

Application No. 41056

Turcotte & Goldsmith by Jack O. Goldsmith,
 for applicants.

O P I N I O N

The Commission is requested herein to authorize James E. Potter, who is engaged in the transportation of property as a highway common carrier (Decision No. 54645 dated March 12, 1957) between Los Angeles Territory, on the one hand, and all points on U. S. Highways Nos. 60 and 99 and State Highway No. 111 between Beaumont and Calexico, both inclusive, and the off-route point of Holtville, on the other hand, to transfer such operative right and business to Lom Thompson.

A public hearing was held in Los Angeles before Examiner Silverhart on May 12, 1959, on which date the matter was submitted. There were no protests to the granting of the application.

Upon consideration of all the evidence the Commission makes findings of fact and conclusions of law as follows:

Findings of Fact

1. That the proposed purchase price for the transfer of the operative right and business is the sum of \$5,000 payable in full within 15 days after the effective date of an order by the Commission authorizing the proposed transfer.

2. That Lom Thompson is a highway common carrier (Decisions Nos. 54615 and 57802) transporting property between Los Angeles Territory, Buena Park, Fullerton and Bellflower, on the one hand,

and that portion of Imperial Valley which lies west of the Main All American Canal to Coachella Valley, on the other hand.

3. That James E. Potter, as a result of competition afforded by other highway common carriers operating in the area served by him, has been unable to obtain a sufficient quantity of traffic so as to operate profitably.

4. That Potter now, cannot and will not be able to, furnish the type of service demanded by the public.

5. That the only territory served by Potter as a highway common carrier which Thompson is not now authorized to serve are the points on U. S. Highways Nos. 60 and 99 and State Highway No. 111 between Beaumont and the Riverside-Imperial County Line, which points generally are intermediate between the Imperial County Points served by Thompson and the Los Angeles Territory.

6. That Thompson, if this transfer is approved, will cause to be constructed a larger and full-time terminal at Palm Springs, and a full-time depot at Indio.

7. That Thompson possesses the financial ability, equipment, shops and terminals to render service within the area resulting from the combination of his present operating authority with that of Potter.

8. That the public will be better served by Thompson.

9. That Potter and Thompson each is a party to certain through routes and joint rates with a number of other carriers.

10. That Thompson will continue the publishing and maintaining of the through routes and joint rates presently published and maintained by Potter.

Conclusions of Law:

That the public interest will not be adversely affected by approval of the transfer of the operative right and business here involved.

The application will be granted. No finding is made as to the value of such operative right and business.

O R D E R

A public hearing having been held and based upon the evidence therein adduced,

IT IS ORDERED:

1. That, on or before August 14, 1959, James E. Potter may sell and transfer and Lom Thompson may purchase and acquire the operative right and business referred to in the application in accordance with the terms of the agreement attached thereto as Exhibit A.
2. That, within thirty days after the consummation of the transfer herein authorized, Lom Thompson shall notify the Commission, in writing, of that fact and within said 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 said transfer.
3. That, on not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the operations here involved to show that James E. Potter has withdrawn or canceled, and Lom Thompson has adopted or established as his own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

4. That within ninety days after completion of said transfer Low Thompson shall file an application with this Commission delineating duplicating or paralleling rights if any he may possess as a result of such transfer and requesting that all his operative rights heretofore and herein acquired be restated.

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

Dated at San Francisco, California, this 32nd
day of May, 1959.

C. L. Fox
President
W. L. Thompson
Michael J. Walsh
Theodore J. Deemer
C. W. R. R. R.
Commissioners