

ORIGINAL

Decision No. 58907

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
BROWN DRAYAGE INC., a corporation,)	
to sell and transfer, and BLANKENSHIP)	Application No. 41294
MOTORS, a corporation, to purchase)	
operative rights.)	

O P I N I O N

Brown Drayage Inc., requests authority to sell and transfer and Blankenship Motors requests authority to purchase and acquire operative rights authorizing the transportation of general commodities between San Francisco Territory and Crockett, on the one hand, and Los Angeles Territory, on the other hand.

Said operative rights were acquired for the sum of \$25,000 by Brown Drayage Inc. as a result of the insolvency of Alves Service Transportation Inc. The purchase price is \$35,000. A value of \$25,000 is placed upon the operative rights and an additional \$10,000 is being paid in consideration for a covenant not to compete.

Blankenship Motors presently operates as a highway common carrier for the transportation of general commodities between various points within the State. For the five months ending May 31, 1959, it realized a net profit of \$39,377.29.

It is alleged that Brown Drayage Inc. is a local drayage operation and originally desired to conduct long-line operations between Los Angeles and San Francisco; that as a result it purchased the Alves certificate; that since its acquisition applicant Brown Drayage Inc. has discovered that it would require a substantial change in the type of its business to operate between the San Francisco and Los Angeles Territories.

After consideration the Commission is of the opinion and so finds that Blankenship Motors has the necessary experience and financial ability to conduct said operations and that the proposed sale would not be adverse to the public interest. A public hearing is not necessary.

Blankenship Motors is hereby placed on 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled 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 filed and the Commission being informed in the premises,

IT IS ORDERED:

1. That on or before December 15, 1959, Brown Drayage Inc., may sell and transfer, and Blankenship Motors may purchase and acquire, the operative rights granted in Decisions Nos. 49247, 53310 and 53938 and transferred to Brown Drayage Inc. by Decision No. 57610.

2. That, within thirty days after the consummation of the transfer herein authorized, the purchaser 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 common carrier operations here involved, to show that Brown Drayage Inc. has withdrawn or canceled, and Blankenship Motors has adopted or established as its 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.

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

Dated at San Francisco, California, this 18th day of August, 1959.

Ernest R. Brown
President
John E. McMillin
E. L. Fox
Theodore J. Jensen
Commissioners