

ORIGINALDecision No. 59040

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WILFRED H. WISEMAN, an individual,)
to transfer a certificate of public) Application No. 41401
convenience and necessity to)
LORRAINE DI LEO, an individual.)

O P I N I O N

Wilfred H. Wiseman requests authority to sell and transfer and Lorraine Di Leo requests authority to purchase and acquire certain operative rights authorizing the transportation of limited commodities between San Francisco, Oakland and Emeryville, on the one hand, and on the other hand points on U. S. 101 and 101 By-Pass between San Francisco and San Jose.

The transaction is covered by an oral agreement calling for a cash consideration of \$3,000 for the operative rights and good will of seller. It is alleged that said amount represents the approximate cost to seller of acquiring the operative authority and development of the customer accounts.

Applicant purchaser presently operates a certificated common carrier service between points within the San Francisco-East Bay Drayage Area. For the year 1958, applicant purchaser realized a net profit of \$6,200.02.

After consideration the Commission is of the opinion and so finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary.

Lorraine Di Leo 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 January 15, 1960, Wilfred H. Wiseman may sell and transfer, and Lorraine Di Leo may purchase and acquire, the good will and operative rights granted in Decision No. 54451.

(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 Wilfred H. Wiseman has withdrawn or canceled, and Lorraine Di Leo has adopted or established as her 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 22nd day of September, 1959.

Cecil H. Page
President
John E. Hart
William H. Fox
Richard H. Jensen
Commissioners