

Decision No. 61593

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SEARS TRUCKING, INC., to sell, and
JAMES P. MAUGH, doing business as
STUCKI AND JIM'S TRUCK REPAIR
SERVICE, to purchase, a certificate
of public convenience and necessity.

Application No. 43051

O P I N I O N

Sears Trucking, Inc., requests authority to sell and transfer, and James P. Maugh, doing business as Stucki and Jim's Truck Repair Service, to purchase and acquire certain operative rights.

The operative rights in question were created by Decision No. 14404 and were acquired by applicant buyer by Decision No. 51985. Said rights authorize the transportation of property as a highway common carrier between the City of Los Angeles and the Los Angeles harbor. The agreed consideration is \$5,000 payable as follows: \$1,000 down, \$1,500 upon the approval of this Commission and the balance payable in 12 monthly installments at the rate of 6 percent per annum. The consideration represents an amount less than that paid by applicant seller in acquiring said rights. As of October 31, 1960, applicant buyer indicated a net worth in the amount of \$38,479.04.

It is alleged that due to equipment limitations applicant seller desires to operate solely as a permitted carrier; that applicant buyer, who operates pursuant to a radial highway common carrier permit, has a substantial fleet of equipment and can thereby provide a more complete public service.

After consideration, the Commission finds and concludes that the proposed sale would not be adverse to the public interest. A public hearing is not necessary.

James P. Maugh, doing business as Stucki and Jim's Truck Repair Service, 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 HEREBY ORDERED:

1. That, on or before May 1, 1961, Sears Trucking, Inc., is hereby authorized to transfer and sell, and James P. Maugh is hereby authorized to purchase and acquire, the operative rights granted by Decision No. 14404 and acquired by Decision No. 51985, according to the terms set forth in Exhibit A attached to the application.
2. That, within thirty days after the consummation of the transfer herein authorized, 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, applicant shall, effective concurrently with the consummation of such transfer, amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations here involved, including joint rate arrangements, to show that Sears Trucking, Inc., has withdrawn or canceled and James P. Maugh has adopted or established as his own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects 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 28th day of February, 1961.

James P. Maugh
President

W. E. Mitchell

C. Lynn Fox

George H. Hoover

Frederick B. Hildebrandt
Commissioners