

Decision No. 62904

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
P. A. W. Boyle (deceased) dba CORONADO)
RAPID TRANSFER by ABBIE M. BOYLE,)
Executrix of the Estate of P. A. W.)
BOYLE to transfer to ROBERT M. SCULLY)
and KATHLEEN A. SCULLY an automobile)
freight line operated between Coronado)
and San Diego, California.)

Application No. 43845

OPINION AND ORDER

Abbie M. Boyle, as Executrix of the Estate of P. A. W. Boyle, requests authority to transfer certain highway common carrier operative rights and property to Robert M. Scully and Kathleen A. Scully.

The operative rights, prescriptive in nature, were stated in Decision No. 22090 dated February 5, 1930, in Application No. 16074, and acquired by P. A. W. Boyle by Decision No. 36421 dated June 8, 1943, in Application No. 25406, and authorize the transportation of property between Coronado and San Diego. P. A. W. Boyle died on January 22, 1961. Prior to the time of his death he was in the process of making a gift of the business to his daughter Kathleen A. Scully and her husband, Robert M. Scully, the transferees herein. Robert M. Scully and his wife have been engaged in the conduct and operation of the business for many years. As of July 1, 1961, the transferees indicated a net worth in the amount of \$37,865.86.

After consideration the Commission finds and concludes that the proposed transfer would not be adverse to the public interest and that applicant transferees have the necessary experience and financial ability to continue service. A public hearing is not necessary.

Robert M. Scully and Kathleen A. Scully are 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.

Therefore, application having been filed and the Commission being informed in the premises,

IT IS ORDERED:

1. That, on or before February 1, 1962, Abbie M. Boyle, as Executrix of the Estate of P. A. W. Boyle, is authorized to transfer, and Robert M. Scully and Kathleen A. Scully may acquire, the prescriptive rights and property referred to in the application.

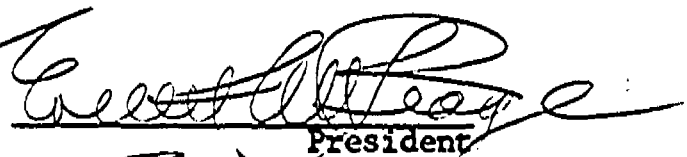
2. That, within thirty days after the consummation of the transfer herein authorized, applicants shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any instrument of transfer which may be executed to effect said transfer.


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 highway common carrier operations here involved, to show that P. A. W. Boyle has withdrawn or canceled and Robert M. Scully and Kathleen A. Scully have adopted or established as their own, said rates, rules and regulations. The tariff filings made pursuant to

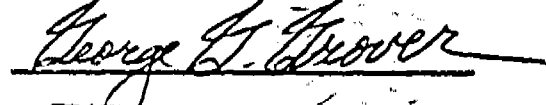
this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

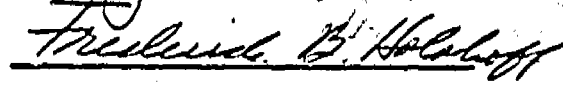
The effective date of this order shall be twenty days after the date hereof.

Dated at Los Angeles, California, this 5th day of December, 1961.



President






Commissioners
Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.