

ORIGINAL

Decision No. 63853

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
WALTER G. MITCHELL, JR., an individual,
doing business as Auto Fast Freight
and Luciano Giudice, Charlotte Giudice,
Charles Traina and John Traina, a co-
partnership, for authority to transfer
certificate of public convenience and
necessity, and for the issuance of a
new certificate of public convenience
and necessity to LUCIANO GIUDICE,
CHARLOTTE GIUDICE, CHARLES TRAINA and
JOHN TRAINA, a copartnership, to
operate as a highway common carrier, as
defined by Section 213 of the Public
Utilities Code.

Application No. 44464

O P I N I O N

Walter G. Mitchell, Jr., doing business as Auto Fast Freight requests authority to sell and transfer and Luciano Giudice, Charlotte Giudice, Charles Traina and John Traina request authority to purchase and acquire certain highway common carrier rights and property.¹

The operating authority was granted by Decision No. 60008 in Application No. 41557 and authorizes the transportation of general commodities between various points in the Los Angeles area including Whittier, San Bernardino, Fullerton, Santa Ana and Lake Arrowhead. The property includes office supplies, 11 units of equipment and good will.

The agreed cash consideration is \$23,000 payable as follows: \$15,000 to the United States of America towards liquidation of

1 The application refers to applicant Mitchell's permits. These permits, however, are not involved in this proceeding.

Seller's liability for tax liens owed to the U. S. Department of Internal Revenue; \$8,000 to Seller to be distributed, pro rata, among Seller's general creditors. No value was placed upon the operating rights.

Applicant Buyers are residents of San Bernardino. Luciano and Charlotte Giudice have had many years of experience in the trucking business. John and Charles Traina own and operate a garage and service station. Both are mechanics and will maintain the equipment. As of May 1, 1962 applicant Buyers indicated a net worth in the amount of \$114,027.16.

After consideration the Commission finds and concludes that the proposed sale would not be adverse to the public interest and that applicant Buyers have the necessary experience and financial ability to conduct the operation. A public hearing is not necessary.

Luciano and Charlotte Giudice, John and Charles Traina 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.

O R D E R

Application having been filed and the Commission having determined that the application should be granted,

IT IS ORDERED that:

1. On or before November 1, 1962, Walter G. Mitchell, Jr., may sell and transfer, and Luciano Giudice, Charlotte Giudice, Charles Traina and John Traina may purchase and acquire the high-way common carrier operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Luciano Giudice, Charlotte Giudice, Charles Traina and John Traina 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. 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 Walter G. Mitchell, Jr., has withdrawn or canceled, and Luciano Giudice, Charlotte Giudice, Charles Traina and John Traina have adopted or established, as their own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and to the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. 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 26th day of JUNE, 1962.

Quentin T. Tamm
President

John F. Phillips

George B. Brown

Fredrick B. Harbison

Commissioners

Commissioner C. Lyn Fox, being necessarily absent, did not participate in the disposition of this proceeding.