

ORIGINAL

Decision No. 64213

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of J. O. COOK and R. B. TILLITT, Copartners doing business as COOK & TILLITT FREIGHT SERVICE, to Sell, and COOK & TILLITT FREIGHT SERVICE, INC., a corporation, to Purchase, Operating Rights and all property of a Highway Common Carrier, and the Application of COOK & TILLITT FREIGHT SERVICE, INC. to Issue Stock.

Application No. 44700
Filed August 10, 1962

O P I N I O N

In this application the Commission is asked to make an order authorizing J. O. Cook and R. B. Tillitt, copartners doing business as Cook & Tillitt Freight Service, to transfer operative rights and other assets to Cook & Tillitt Freight Service, Inc.

The operative rights proposed to be transferred are embraced in a certificate of public convenience and necessity granted by the Commission by Decision No. 56543, dated April 15, 1958, in Application No. 36435, and authorize the transportation of general commodities, with certain exceptions, between all points and places within the Los Angeles Territory and of specific commodities between said territory and other points. There are also included in

the transfer nine units of equipment, furniture and fixtures, cash and accounts receivable, all of a reported net book value of \$11,885.92, after deducting liabilities of \$4,036.71. The agreed consideration for the transfer is the issuance to J. O. Cook and R. B. Tillitt of \$11,880.00 par value of stock and the assumption of said liabilities.

The reason for the transfer is that J. O. Cook and R. B. Tillitt desire to conduct their operations under a corporate form of organization.

After consideration the Commission finds and concludes that the proposed sale will not be adverse to the public interest and that the application should be granted.

Cook & Tillitt Freight Service, Inc., 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.

The authorization herein given is not to be construed to be a finding of the value of the operative rights and other assets herein authorized to be transferred.

O R D E R

The Commission has considered the above-entitled matter, has determined that a public hearing is not necessary, that the money, property or labor to be procured or paid for through the issue of the stock herein authorized is reasonably required for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS ORDERED that -

1. On or before December 31, 1962, J. O. Cook and R. B. Tillitt may sell and transfer, and Cook & Tillitt Freight Service, Inc., may purchase and acquire, the operative rights and other assets referred to in this application.

2. In payment for said operative rights and other assets, Cook & Tillitt Freight Service, Inc., may issue not to exceed \$11,880.00 par value of its common stock and assume the payment of outstanding liabilities in the total amount of \$4,036.71.

3. Within thirty days after the consummation of the transfer herein authorized, Cook & Tillitt Freight Service, Inc., 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.

4. 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 J. O. Cook and R. B. Tillitt have withdrawn or canceled and Cook & Tillitt Freight Service, Inc., has adopted or established, as its own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten 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-A.

5. Cook & Tillitt Freight Service, Inc., shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

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

Dated at San Francisco, California,
this 11th day of SEPTEMBER, 1962.

George G. Grover
President

C. Lyn Fox

Fredrick B. Holoboff

_____ Commissioners

GEORGE G. GROVER
President
C. LYN FOX
FREDERICK B. HOLOBOFF
Commissioners

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

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