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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Loyd B. Turner, an individual doing business as BLUE TRUCK LINES to sell, and K, K, W. TRUCKING, INC., a California corporation, to purchase operative rights, and K, K, W. TRUCKING, INC., to issue its note payable over periods more than 12 months after the date thereof.

Application No. 44999

(Filed November 30, 1962)

F. W. Turcotte and Jack O. Goldsmith, for applicant.

Russell & Schureman, by R. Y. Schureman, for Lads Furniture Freight, Inc., Cromwell Warner, for North American Van Lines, Inc.; Loveless, Schauer & Clarke, by Alan I. Epstein, for Elva M. Lemon, Assignee of Western Conference of Teamsters Pension Trust; and R. C. Fels, for Furniture Manufacturers Association of California, interested parties.

R. E. Heytens, for Commission staff.

O P I N I O N

Loyd B. Turner, seller, had authority as a highway common carrier to transport uncrated new household, office and store furniture (1) between points in the Los Angeles area and between the Los Angeles Territory, on the one hand, and San Luis Obispo and points between there and Los Angeles, on the other hand, as authorized by Decision No. 53086, dated May 15, 1956, in Application No. 35966, and (2) between all points within 35 miles of the intersection of First and Main Streets in the City of Los Angeles, on the one hand, and

- (a) Points on U. S. Highway No. 99 between Merced and Sacramento, both inclusive,
- (b) Points on U. S. Highway 50 between Stockton and San Francisco territory,
- (c) Points on State Highway No. 120 between Manteca and intersection U. S. Highway 50,
- (d) San Francisco territory,
- (e) Points on U. S. Highway No. 101 between San Francisco territory and Santa Rosa, including Santa Rosa,
- (f) Points on U. S. Highway No. 40 between San Francisco territory and Roseville,
- (g) Points on State Highway No. 29 between Vallejo and Napa,
- (h) Points on U. S. Highway No. 99-W between its junctions with U. S. Highways Nos. 40 (near Davis) and 99-E (at Red Bluff),
- (i) Points on U. S. Highway No. 99-E between its junctions with U. S. Highways Nos. 40 (at Roseville) and 99-W (at Red Bluff),
- (j) Points on U. S. Highway No. 99 between Red Bluff and Central Valley,

as authorized by Decision No. 52381, dated April 10, 1956, in Application No. 36410.

The Decision No. 53086 rights were sold to Kleimer Van Lines, Inc., by permission of Decision No. 61997, dated May 16, 1961, in Application No. 42442.

By the instant application, seller seeks authority to sell and K, K, W. Trucking, Inc., a California corporation, buyer, seeks authority to buy the rights granted by Decision No. 52381 and to execute a promissory note in the sum of \$5,000 payable to seller in 35 monthly payments of \$100 each, plus a final payment of \$1,500 thirty-six months from the date of transfer (Exhibit A on the application).

Public hearings on the application were held in Los Angeles on February 15 and March 22, 1963, before Examiner Rogers. Prior thereto, notice was given as required by this Commission.

The record shows, and we find, that the seller suspended operations in March, 1960, due to a labor dispute which forced him to suspend operations for 60 days; that such suspension caused him a loss of \$30,000; that such loss rendered him financially unable to recommence operations; and that he at no time intended to abandon his rights under Decision No. 52881.

The proposed purchaser is a California corporation. It has a radial highway common carrier permit, a highway contract carrier permit and a city carrier permit, all issued by this Commission on November 5, 1962. Its officers are Thomas U. Kane, President, Karl D. Kreger, Secretary, and Donald Walls, Vice President. The sole stockholder of the corporation is the secretary, Karl D. Kreger. The corporation commissioner authorized the issuance to him on September 24, 1962, of 50 of the purchaser's shares at \$100 per share.

The purchaser owns or has available one leased tractor and is purchasing under contracts of sale two van-type semitrailers. It has a rented terminal at 7230 Maie Avenue, Los Angeles. As permanent employees, it has one loader and one billing clerk. Because of the shortness of time that the company had been in business, it had no financial statement. Its secretary-treasurer and sole stockholder stated, however, that he is willing to assist the company by loaning it not to exceed \$5,000.

Several shippers of new uncrated household goods appeared in support of the application and requested that the application be granted.

Two carriers of uncrated new household goods, namely, North American Van Lines, Inc., and Lads Furniture Freight, Inc., protested the granting of the application. Lads Furniture Freight, Inc., did not secure authority to serve the area here involved until the seller had actually been in business for several years and, in fact, secured its certificate during the period the seller suspended operations due to labor difficulties. The protestant North American Van Lines, Inc., has a transferred authority which was in effect during the periods of the seller's difficulties.

Upon the evidence herein, the Commission finds that K, K, W. Trucking, Inc., has the ability to take over and operate a highway common carrier service under the rights here involved and that the transfer of the certificate of public convenience and necessity set forth in Decision No. 52881 from Loyd B. Turner to K, K, W. Trucking, Inc., is not adverse to the public interest and that the money, property or labor to be procured or paid for by the execution of the proposed contract is reasonably required for the purposes specified herein.

K, K, W. Trucking, 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 granted shall not be construed as a finding of the value of the rights herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1963, Loyd B. Turner may sell and transfer, and K, K, W. Trucking Co., Inc., may purchase and acquire the operative rights granted by Decision No. 52831 dated April 10, 1956, in Application No. 36410 and may issue a note in the principal amount of \$5,000 in payment of the purchase price.
2. Within thirty days after the consummation of the transfer herein authorized, K, K, W. Trucking, Inc., shall notify this Commission in writing of that fact and within said period shall file with the Commission a true copy of the agreement pursuant to which such transfer is effected.
3. K, K, W. Trucking, Inc., shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein to show that it has adopted or established as its 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 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.

4. K, K, W. Trucking, Inc., shall file a report of the issue of the note as required by General Order No. 24-A.

5. The authority to issue a note will become effective when K, K, W. Trucking, Inc., has paid the \$25 fee prescribed by Section 1904(b) of the Public Utilities Code.

In other respects, the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 21st day of May, 1963.

George G. Throver
President

Fredrick B. Hallock

William W. Bennett

Commissioners

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

