

ORIGINALDecision No. 69042

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of A. MEYERS, Deceased, by GLADYS MARIE Meyers, as Executrix of the Estate of ALEXANDER MEYERS, Deceased, and R. B. MEYERS, co-partners doing business as WESTERN TRANSPORTATION COMPANY; and by GLADYS MARIE MEYERS, as Trustee of the Estate of ALEXANDER MEYERS, Deceased, and GLADYS MARIE MEYERS, individually, as successors to WESTERN TRANSPORTATION COMPANY, a partnership, to transfer to WESTERN TRUCK LEASING COMPANY, a corporation, doing business as WESTERN TRANSPORTATION COMPANY, a certificate of public convenience and necessity for the transportation of general commodities, with certain exceptions, between various points in Southern California, pursuant to Sections 851-853 of the California Public Utilities Code.

Application No. 47390
(Filed March 8, 1965)

O P I N I O N

By Decisions Nos. 54542 and 55030, in Application No. 36495, A. Meyers and R. B. Meyers were granted a certificate of public convenience and necessity authorizing them to transport general commodities, subject to certain restrictions and along named routes and lateral areas, between various points and places in the Counties of Kern, Los Angeles, Orange, Riverside, San Bernardino, Santa Barbara and Ventura, all as more specifically

set forth in said certificate. They were also authorized to transport property as a Radial Highway Common Carrier, Highway Contract Carrier, and City Carrier (Permits Nos. 19-24770, 19-24771 and 19-40552, respectively).

A. Meyers (Alexander Meyers) died testate August 24, 1962. Prior to his death the partners entered into an oral agreement whereby R. B. Meyers' interest was to be transferred to A. Meyers in consideration of the assumption by the latter of all the liabilities of the partnership. Due to A. Meyers' long and serious illness no application for authority to consummate the transfer was filed.

On September 27, 1962, letters testamentary were issued to Gladys Marie Meyers, wife of A. Meyers, appointing her Executrix of the Last Will of Alexander Meyers (Case No. P-459498, in the Superior Court of the State of California, in and for the County of Los Angeles). On January 23, 1964, the court, having determined that the assets of the copartnership were solely owned by A. Meyers on the date of his death, included said assets in his estate and, by preliminary decree of distribution, ordered, among other things, the said transportation business and assets and operating authority distributed one-half to Gladys Marie Meyers, as trustee, pursuant to the provisions of the will and one-half to Gladys Marie Meyers as the surviving wife of A. Meyers.

The trust provides for a life interest in the estate to Gladys Marie Meyers and upon her death the trust terminates.

and is to be distributed to Richard B. Meyers and Donald E. Meyers, sons of decedent A. Meyers and Gladys Marie Meyers.

On January 30, 1964, Gladys Marie Meyers, individually, and Gladys Marie Meyers, as trustee under the will of Alexander Meyers (referred to as Stockholders), pursuant to the power granted in the decree, entered into an agreement with Western Truck Leasing Company, a corporation (referred to as Corporation), whereby the Stockholders agree to transfer all of the assets of the transportation business of A. Meyers, formerly conducted under the fictitious name of Western Transportation Company, to the Corporation in consideration of the latter assuming and agreeing to pay all the liabilities and claims that have arisen in the operation of the said business, said assets consisting of all tangible assets, operating permits, certificates, good will, name and other intangible assets. The effective date of the transfer is January 31, 1964.

The 1963 annual report of the partners filed with this Commission shows a balance sheet statement as of December 31, 1963, as follows (condensed):

Current Assets	\$368,146.00	
Tangible Assets*	42,335.00	
Other Assets	<u>5,351.00</u>	
Total		\$415,832.00
Current Liabilities	\$402,819.00	
Other Liabilities & Deferred Credits	4,389.00	
Proprietorship Capital	<u>8,624.00</u>	
Total Liab. & Capital		\$415,832.00

*Carrier operating property valued at \$371,720.00, less reserve for depreciation and amortization of \$329,385.00.

The financial condition of Western Truck Leasing Company, a California corporation, as of December 31, 1964, was
(1)
as follows:

Current Assets	\$606,255.72	
Fixed Assets less reserve for depre. & investment credit	733,561.51	
Other Assets	<u>22,080.75</u>	
Total Assets		<u>\$1,361,897.98</u>
Current Liabilities	\$671,553.09	
Long Term equipment obligations	585,347.60	
Other Liabilities	<u>8,311.23</u>	
Total Liabilities		\$1,265,211.92
Capital Stock	\$ 6,000.00	
Surplus	<u>90,686.06</u>	
Total Liabilities & Capital		<u>96,686.06</u> <u>\$1,361,897.98</u>

Statement of Income and Expense for the year 1964 shows an operating deficit of \$56,321.00 on a total revenue of \$2,146,944 less expenses of \$2,203,265.00. Its equipment as of December 31, 1964, consisted of 31 bobtails, 40 tractors, 169 trailers and 24 dollies.

(1) Includes assets and assumed liabilities of Western Transportation Company except Interstate Commerce Commission and California Public Utilities Commission certificates and permits.

Western Transportation Company is a participant in the rates set forth in Western Motor Tariff Bureau, Inc., Agent, Local, Joint and Proportional Freight and Express Tariff No. 111, Cal. P.U.C. No. 15, W. J. Knoell, Issuing Officer; and, in Western Motor Tariff Bureau, Inc., Agent, Local Freight Tariff No. 113, Cal. P.U.C. No. 19, W. J. Knoell, Issuing Officer. The Partnership presently is not a party to any joint through rate tariff. Western Truck Leasing Company proposes to adopt the tariff of the Partnership.

The application is not opposed.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and therefore the application will be granted. A public hearing is not necessary.

The authorization herein granted shall not be construed as a finding of the value of the operative rights herein authorized to be transferred.

Western Truck Leasing Company, a corporation, 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

IT IS ORDERED that:

1. On or before June 30, 1965, Gladys Marie Meyers, individually and as Executrix of the Estate of A. Meyers (Alexander Meyers), and as Trustee of the Estate of Alexander Meyers, may transfer, and Western Truck Leasing Company, a corporation, may acquire, the operative rights and property referred to in the application in the manner and for the consideration recited therein.
2. Within thirty days after the consummation of the transfer herein authorized, Western Truck Leasing Company 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. Western Truck Leasing Company 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. On or before the end of the third month, after the consummation of the transfer as herein authorized, Western Truck Leasing Company shall cause to be filed with the Commission, in such form as it may prescribe, an annual report, or reports, covering the period commencing with the first day of the current year to and including the effective date of the transfer.

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

Dated at San Francisco, California, this 11th day of MAY, 1965.

John J. ... President

George E. Grover

Augustus ...

William ... Commissioners

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.