

**ORIGINAL**

Decision No. 72828

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Lyles Trucking Company, Incorporated, )  
 a corporation, to purchase and Wilbur )  
 C. Winegar, individually, Wilbur C. )  
 Winegar, as Administrator of the )  
 Estate of Myrtle P. Winegar and )  
 Wilbur C. Winegar, distributee of )  
 the Estate of Myrtle P. Winegar, )  
 deceased, doing business as C. M. )  
 Winegar Trucking Company, to sell )  
 a certificate of public convenience )  
 and necessity of general commodities )  
 between points in the Los Angeles )  
 Territory and between Los Angeles, )  
 on the one hand, and San Diego and )  
 Riverside on the other hand, pursuant )  
 to Sections 851 - 853 of the )  
 California Public Utilities Code. )

Application No. 49483  
 (Filed June 16, 1967)

O P I N I O N

Wilbur C. Winegar, individually, Wilbur C. Winegar, as Administrator of the Estate of Myrtle P. Winegar, and Wilbur C. Winegar, distributee of the Estate of Myrtle P. Winegar, deceased, doing business as C. M. Winegar Trucking Company, requests authority to sell and transfer, and Lyles Trucking Company, a corporation, requests authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier.

The certificate was granted by Decision No. 56440, dated April 1, 1958, in Application No. 36490 and authorizes the transportation of general commodities between points and places in the Los Angeles Territory and between Los Angeles, on the one hand, and San Diego and Riverside, on the other hand. The agreed cash consideration is \$18,000, which also includes certificated authority registered with the Interstate Commerce Commission.

Applicant purchaser has operated for many years in the Los Angeles area pursuant to permitted authority issued by this Commission. As of December 31, 1966, applicant purchaser indicated a net worth in the amount of \$23,861. The purchase price will be advanced by George E. Lyles, president and sole shareholder of applicant purchaser, and will be carried on the corporate books as an account payable.

Copies of the application were served upon the California Trucking Association at both of its offices located in Burlingame and Los Angeles. Because notices of all such applications are published in "Caltrux", official publication of the association, and in order to secure a speedy and inexpensive determination it is requested that service on all competing carriers as required by Rule 29(a) of the Commission's Rules of Procedure be waived.

After consideration this Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary.

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

Lyles Trucking 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 March 1, 1968, Wilbur C. Winegar, individually, Wilbur C. Winegar, as Administrator of the Estate of Myrtle P. Winegar, and Wilbur C. Winegar, distributee of the Estate of Myrtle P. Winegar, deceased, doing business as C. M. Winegar Trucking Company, may sell and transfer, and Lyles Trucking Company, a corporation, may purchase and acquire, the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Lyles Trucking Company, a corporation, 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. Lyles Trucking Company, a corporation, shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that it has adopted or established, as its own, said rates and rules. 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, Lyles Trucking Company, a corporation, shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. Compliance with the provisions of Rule 29(a) of the Commission's Rules of Procedure is hereby waived in this proceeding.

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

Dated at San Francisco, California, this 1<sup>st</sup> day of AUGUST, 1967.

*John E. Mitchell*  
President  
*William W. Bivens*  
*August*  
*William J. ...*  
*Jack P. ...*  
Commissioners