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ORIGINAL

Decision No. 11710

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of)
ROBERT NICHOLSON and A. E. BLANC,)
and B. E. CHRISTIAN for the transfer :
of an automobile truck freight franchise)
between San Diego and Julian and inter-)
mediate points in the county of San :
Diego, California, and also for the : Application No. 8351
transfer of an undivided one-half)
interest in the auto freight franchise)
of said Blanc between San Diego and :
Julian to the said B. E. Christian.)

BY THE COMMISSION,

ORDER ON PETITION FOR
REHEARING.

In the above entitled application as originally filed Robert Nicholson applied for permission to transfer a certain operative right to a co-partnership consisting of Blanc and Christian and Blanc applied for permission to transfer a one-half interest in a certain operative right held by himself to Christian.

Under Decision No. 11506, dated January 13, 1923, the Railroad Commission denied the application on the ground that the certificate at the present time held by Blanc provided for service between San Diego and Julian and expressly prohibited service to or from intermediate points. The certificate held by Nicholson authorizes service between San Diego, Julian and

intermediate points and through the transfer as originally proposed the co-partnership would be enabled, through transfer, to hold two certificates authorizing the conduct of different service between the same termini which would enable them to enlarge upon an operative right through transfer rendering a service expressly prohibited thereunder.

On February 15, 1923 A. E. Blanc filed an application for permission to abandon and cease operation under the certificate at present held by him. With the granting of such application, we are of the opinion that the present application may be granted insofar as it refers to the transfer of the operative right of Nicholson to the co-partnership.

IT IS HEREBY ORDERED that Robert Nicholson be, and he hereby is authorized to transfer and A. E. Blanc and B. H. Christian, co-partners, to acquire and operate under a certificate of public convenience and necessity heretofore granted to said Nicholson under Decision No. 5925 in Application No. 4203, subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing or any purpose other than the transfer herein authorized.
2. Applicant Robert Nicholson shall immediately cancel all tariff of rates and time schedules now on file with the Commission, such cancellation to be in accordance with the provisions of General Order No. 51 of the Railroad Commission.
3. Applicants Blanc and Christian shall immediately file, in duplicate, tariff of rates and time schedules covering service, certificate for which is herein authorized to be transferred to them as co-partners, or adopt as their own the tariff of rates and time schedules as filed by applicant Nicholson. All tariff of rates and time schedules to be identical with those as filed by applicant Nicholson.

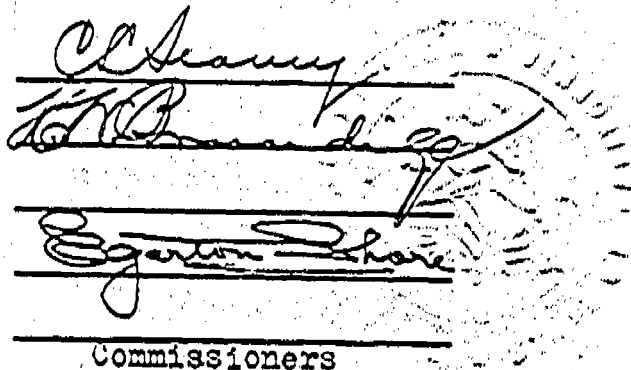
4. The rights and privileges herein authorized to be transferred shall not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. No vehicle may be operated by the co-partners, Blanc and Christian, unless such vehicle is owned by them or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that this application in all other respects be, and the same hereby is denied.

IT IS HEREBY FURTHER ORDERED that Decision No. 11506, dated January 13, 1923, be, and the same hereby is revoked and annulled.

Dated at San Francisco, California, this 23d day of February, 1923.


Commissioners