

ORIGINAL

Decision No. 18884

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application)
of RAY A. ANDERSON to sell and)
JAMES T. AGAJANIAN to purchase)
automobile freight line operated)
between dairy ranches in vicinity)
of Arlington, Riverside and Corona)
and El Monte and Los Angeles.)

APPLICATION NO. 13904.

James T. Agajanian, Applicant, in
Propria Persona.

J. K. Hawkins, Protestant.

BY THE COMMISSION:

O P I N I O N

Ray A. Anderson has made application to the Railroad Commission for authority to sell, and James T. Agajanian has applied for authority to purchase, an automobile freight line now operated by applicant Anderson for the transportation of milk and dairy supplies between dairy ranches in the vicinity of Arlington, Riverside and Corona, and El Monte and Los Angeles.

A public hearing herein was conducted by Examiner Williams at Los Angeles, at which time the matter was duly submitted and now is ready for decision.

The rights sought to be transferred were granted to applicant Anderson by Decision No. 15774 on Application No. 11197, dated December 21, 1925, and are for the transportation

of milk and cream from dairy ranches in the district stated, over specific routes, and for the return movement of dairy supplies, and for no other service.

According to the agreement set up in the proceeding, applicant Agajanian is paying the sum of \$12,000 for the business, of which \$2200 represents the value placed on the certificated rights, and \$9800 the equipment, consisting of three trucks and one trailer. No request is made for alteration of rates or service, applicant Agajanian agreeing to continue the business as already certificated to Anderson.

The purchaser had some experience in milk transportation several years ago, and is now contractor for the removal of garbage and waste paper from the harbor district of Los Angeles, which contract he has held for several years. He testified that he is financially able to provide any equipment necessary in the development of the business sought to be acquired herein, and that payment for the business and certificate will be made in cash.

While J. K. Hawkins, operating a similar service under certificate of this Commission from territory contiguous to that served by applicant Anderson, appeared as a protestant to the transfer, he explained that he was interested only in confining Agajanian's operations to the exact area authorized by the Commission. Applicant Agajanian stated that he would adhere strictly to the area and routing fixed for Anderson, and that he intended no enlargement. Upon this assurance Mr. Hawkins' protest was withdrawn.

There appears to be no reason why the transfer herein sought should not be authorized and the order following this opinion will so provide. It should be noted, however, that

the purchaser is hereby placed upon notice that "Operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given. The Commission at the early stages of the development of this kind of transportation should be extremely careful not to lend encouragement to the idea that these rights possess a substantial element of value, either for rate fixing or capitalization.

O R D E R

Ray A. Anderson having made application to the Railroad Commission for authority to sell and transfer the automobile freight line operated by him between Arlington, Riverside and Corona, and El Monte and Los Angeles, as fixed by certificate granted by Decision No. 15774 on Application No. 11197, dated December 21, 1925, to James T. Agajanian, who joins in the application, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

IT IS HEREBY ORDERED that the application herein be and the same hereby is granted, subject to the following conditions:

- I. 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.
- II. Applicant Anderson shall immediately withdraw tariff of rates and time schedules on file with this Commission, covering service, certificate for which is herein authorized to be transferred; such withdrawal to be in accordance with the provisions of General Order No. 51.
- III. Applicant Agajanian shall immediately file, in duplicate, his tariff of rates and time schedules covering service heretofore given by applicant Anderson, which rates and time schedules shall be identical with the rates and time schedules now on file with the Railroad Commission in the name of applicant Anderson, or rates and schedules satisfactory in form and substance to the Railroad Commission.

- IV. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
- V. No vehicle may be operated by applicant Agajanian under the authority hereby granted unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 4th
day of October 1927.

Ernest
Chase
Leon White
Paul R. ...
M. A. ...
Commissioners.