

Decision No. 18888

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 Q. C. ALLISON to sell, and
 CHARLES E. SMITH to purchase an auto-
 mobile freight line operated between
 Los Angeles and Long Beach.

Application No. 14087

BY THE COMMISSION -

OPINION and ORDER**ORIGINAL**

Q. C. Allison, doing business under the fictitious name of Allison's Auto Express, has applied to the Railroad Commission for an order approving the sale and transfer by him to Charles E. Smith of an operating right for an automotive service for the transportation of property between Los Angeles and Long Beach and Charles E. Smith has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement of sale marked Exhibit "A", which exhibit is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$7000, which sum is declared by applicants to be the value of certain equipment and intangibles.

The operating right herein proposed to be transferred was granted to applicant Allison by the Railroad Commission in its Decision No. 7341 dated April 30, 1920, and issued on Application No. 4436. By Decision No. 7341 applicant Allison is authorized to operate

*****as a common carrier of freight between Los Angeles and Long Beach; provided, however, that this authorization extends only to the transportation of automobile supplies and accessories and cigars and tobacco in accordance with the classification set forth in applicant's exhibit attached to and made a part of the application in this proceeding; provided, further, that no authority is hereby conveyed for the transportation of any merchandise between Los Angeles and intermediate points, the authorization granted by this certificate being for through service only between the communities of Los Angeles and Long Beach *****"

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

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.

IT IS HEREBY ORDERED that the above entitled application be and the same hereby is granted, 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 Allison shall immediately unite with applicant Smith in common supplement to the tariffs on file with the Commission, applicant Allison on the one hand withdrawing, and applicant Smith on the other hand accepting and establishing such tariffs and all effective supplements thereto.
- 3- Applicant Allison shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Smith shall immediately file, in duplicate, in his own name, time schedules covering service heretofore given by applicant Allison, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Allison or time schedules satisfactory to the Railroad Commission.

4- 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.

5- No vehicle may be operated by applicant Smith 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 ¹⁵ 4 day of

October, 1927.

Ernest
Albany
Leon Whitell
W. S. Rouse

COMMISSIONERS.