

Decision No. 19091

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of
 H. C. VENABLE to sell, and R. E. ROBSON
 to purchase automobile freight lines
 operated between Los Angeles and various
 points in Southern California.

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)
) Application No. 14191
)

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

H. C. Venable has petitioned the Railroad Commission for an order approving the sale and transfer by him to R. E. Robson of operating rights for an automotive service for the transportation of property between Los Angeles and Artesia and Norwalk and certain other points in the vicinity of Los Angeles and R. E. Robson has asked for authority to purchase and acquire said operating rights and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement 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 \$29,838.91 of which amount \$17,838.91 is declared by applicants to represent the equity of H. C. Venable in certain equipment, and \$12,000 is declared to be the value of intangibles. R. E. Robson is also to assume the payment of \$10,161.09 due on equipment sale contracts.

The records of the Railroad Commission show the following history of the interest of H. C. Venable in operating rights which are more or less involved in the instant proceeding.

Decision No. 6961, dated December 19, 1919, and issued on Application No. 4639 H. T. (C) Venable and A. T. Spencer, co-partners, authorized to operate automotive service for the transportation of freight and express between Los Angeles and Norwalk, provided that the authorization therein granted

*** covers the transportation of milk and dairy products from the communities hereinabove specified to the city of Los Angeles and return haul of such commodities necessary and essential to the dairy industry to the ranches and shippers of milk and

dairy products as served by the applicants herein. The carriage of general freight and express between the communities hereinabove named is not authorized under this declaration.

Decision No.6961, dated December 19, 1919, and issued on Application No.4631 - Charles Zucca authorized to operate automobile service for the transportation of freight and express between Los Angeles and Buena Park, subject to same provision as Venable and Spencer operating right. This operating right was subsequently transferred to Venable and Spencer. (See Decision No.7084, dated February 5, 1920, and issued on Application No.5289).

Decision No.8633, dated February 21, 1921, and issued on Application No.6281 - Venable and Spencer authorized to operate an automotive service for the transportation of freight and express between Norwalk and Artesia but not serving Buena Park, Hansen or Santa Fe Springs; this decision also finds that Venable and Spencer were operating a similar service between Los Angeles, Downey and Norwalk in good faith on May 1, 1917.

Decision No.8884, dated April 19, 1921, and issued on Application No.6713 shows that Venable and Spencer dissolve partnership, Venable taking over operating rights for service in the following territory:

Route 3 - Norwalk, Hansen, Cypress, Artesia, through Norwalk, Downey, Huntington Park to Los Angeles.

Route 4 - Norwalk, circle around Artesia, Norwalk through Downey, Huntington Park to Los Angeles.

Spencer took over right covering territory as follows:

Route 1 - Norwalk, Santa Fe Springs, Studebaker, Downey, Bell to Los Angeles.

Route 2 - Norwalk, Buena Park, La Mirada, Norwalk to Los Angeles.

Decision No.12142, dated May 25, 1923, and issued on Application No.9041 - H. C. Venable acquires from Roy Morey prescriptive right established by Morey through operation prior to May 1, 1917, for auto trucking service for the transportation of milk and dairy products, feed and dairy supplies between Los Angeles and dairy ranches located in the vicinity of Downey, Norwalk and Artesia as far south as Crescent Creamery ranch, a point one mile south of Artesia and including dairy ranches located between Main street on the west and Coyote Creek on the east in said territory.

Decision No.15725, dated December 7, 1925, and issued on Application No.11279 - H. C. Venable authorized to extend service for transportation of milk and dairy supplies to dairies located on Montana Land Company's ranch - route: from junction of Artesia Street and Woodruff Avenue in Artesia, west to Somerset Avenue and south therefrom along Somerset Avenue, a distance of three miles -- stipulates he will not accept business west of one-half mile west of Woodruff Avenue and north of Artesia street. Also authorized to discontinue service to Clearwater.

Decision No.15919, dated February 2, 1926, and issued on Application No.12409 - H. C. Venable authorized to extend existing service by operation of service for the transportation of milk only between Los Angeles and Glendale.

The operating rights herein proposed to be transferred are those acquired by H. C. Venable under authority of Decision No.8884, (dissolution of partnership), and Decisions No.13142, No.15725 and No.15919.

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. Approval of the transfer of the herein described operating rights, however, is not to be construed as authority for the linking up or merging or consolidation of the rights transferred with operating rights now owned by R. E. Robson, nor is it to be construed as authority for the elimination of any of the restrictions contained in said operating rights.

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 H.C. Venable shall immediately unite with applicant R.E. Robson in common supplement to the tariffs on file with the Commission, applicant Venable on the one hand withdrawing, and applicant Robson on the other hand accepting and establishing such tariffs and all effective supplements thereto.

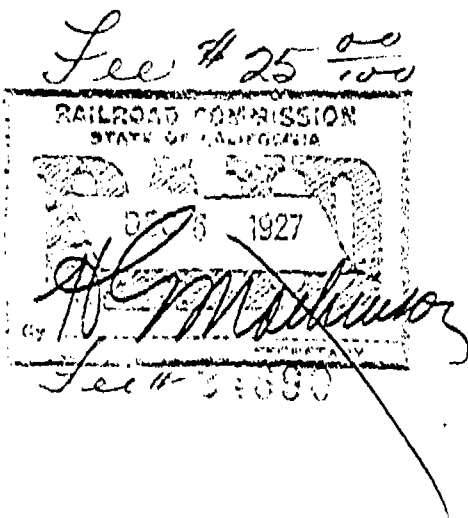
3- Applicant Venable shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Robson shall immediately file, in duplicate, in his own name, time schedules covering service heretofore given by applicant Venable, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Venable, 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 Robson 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.

6- This order is not to become effective until there has been paid to the Railroad Commission the fee required by the Auto Stage and Truck Transportation Act and the Public Utilities Act on all evidences of indebtedness extending over a period of one year, in this instance the minimum fee of \$25.

Dated at San Francisco, this 2nd day of ^{December} November, 1927.



Ernest J. ...
C. S. ...
Leon ...
David ...
M. J. ...
Commissioners.