

Decision No. 19697

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of F. W. REED to transfer and)
assign certificate of public)
convenience and necessity, and of) APPLICATION NO. 14442
SOPHIE H. REED to accept such)
transfer and assignment.)

Frank R. Carrell, for Applicants.

BY THE COMMISSION:

OPINION

F. W. Reed has applied to the Railroad Commission for an order approving the sale and transfer by him to Sophie H. Reed of an operating right for the transportation of milk, cream and dairy products between Los Angeles and Burbank and Glendale, and Sophie H. Reed has asked for authority to purchase and acquire said operating right and to hereafter operate thereunder.

A public hearing herein was conducted by Examiner Williams at Los Angeles.

According to the testimony of F. W. Reed, his wife, Sophie H. Reed, advanced a large amount of money in the establishment of the business under the certificate above.

referred to, and Reed himself contributed nothing. He further testified that it was decided to seek this certificate under the name of a man, rather than a woman, because of threatened competition at the time the certificate was granted in 1925. He testified that the only property used and usable in the business which stood in his name is his certificate.

Mrs. Reed testified that out of her inheritance of separate property from her grandmother and father, she had advanced between \$7,000 and \$8,000 toward the payment for equipment used in the business, and that this equipment stands now and always has stood in her name. She further testified that she has managed the financial and accounting end of the business, while her husband supervised the operation of the trucks. Reed testified that as the money in the business came from his wife's separate estate, he wanted to transfer this certificate to her without other consideration than the investment already made.

It appears that the business has no obligations other than about \$1,000 due upon purchase of trucks. Both applicants testified that the gross income yearly from their business is less than \$20,000. Mrs. Reed stated that the business would be continued as heretofore, and that she felt herself perfectly capable of managing it under the certificate.

While the business apparently has been conducted in an efficient manner and has prospered, it is admitted by the parties that the equipment has never been owned by Reed, although used by him, and it also appeared that he has been negligent in filing his annual report for 1927. He explained this on the ground that he believed the application to transfer would be granted immediately, and that the report should be made in the

name of Mrs. Reed. As there is nothing left to transfer except the certificate itself, it will be authorized under the usual conditions.

It appears from the records of the Commission that applicant, F. W. Reed, is the successor in interest to H. E. Shrainer, having purchased the milk business of Shrainer during the period when the hauling of farm produce, by reason of the Crittenden bill, was not under the jurisdiction of the Railroad Commission. Shrainer, who, previous to the enactment of the Crittenden bill, had operated under authority of the Railroad Commission, sought a new certificate to cover operations as enlarged during the pendency of the Crittenden amendment. Reed was substituted for Shrainer as applicant in the proceeding (Application No. 11267) and the Commission, in its Decision No. 15797, dated December 28, 1925, granted him a certificate, which certificate is that which is herein sought to be transferred.

Sophie H. Reed 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.

O R D E R

F. W. Reed having applied to the Railroad Commission for an order approving the sale and transfer by him to Sophie H. Reed of a certificate of public convenience and necessity, as determined by Decision 15797, and for Sophie H. Reed to accept such transfer, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby orders that the above entitled application be, and the same is hereby, 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 F. W. Reed shall immediately unite with applicant Sophie H. Reed in common supplement to the tariffs on file with the Commission, applicant F. W. Reed on the one hand withdrawing, and applicant Sophie H. Reed on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant F. W. Reed shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicant Sophie H. Reed shall immediately file, in duplicate, in her own name, time schedules covering service heretofore given by applicant F. W. Reed, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant F. W. Reed, or time schedules satisfactory to the Railroad Commission.
4. The right 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 Sophie H. Reed, unless such vehicle is owned by said applicant or is leased by her under contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes, the effective date of this order shall be twenty (20) days from and after the date hereof.

Dated at San Francisco, California, this 2nd day of May, 1928.

C. C. Seaver

W. S. R. R. R.

M. A. C.

Commissioners