

Decision No. 19920

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 S. A. GATES to sell, and O. W. SPAULDING  
 to purchase an automobile freight line  
 operated between Antelope Valley points  
 and Burbank and Los Angeles, California. )  
 ) Application 14756  
 )

**ORIGINAL**

BY THE COMMISSION -

OPINION and ORDER

S. A. Cates has applied to the Railroad Commission for an order approving the sale and transfer by him to O. W. Spaulding of an operating right for an automobile trucking service for the transportation of milk and dairy products between points in Antelope Valley and Burbank and Los Angeles, and O. W. Spaulding has applied 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, a copy of which, marked Exhibit "A", 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 \$900. Of this sum \$750 is said to represent the value of equipment and \$150 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was granted to applicant Gates by the Railroad Commission in its Decision No. 15415, dated September 19, 1925, and issued on Application No. 11232. Said decision authorizes Gates to operate a service for the

transportation of milk and other dairy products from points in the Antelope Valley south of Rosemond, including Rosemond, and from Saugus and Newhall to Burbank and Los Angeles, and for the return transportation of articles and commodities necessary for the business of dairying and consigned only to dairymen shipping from the above mentioned points over applicant's service to the city of Los Angeles, including feed, dairy supplies, acetylene tanks, ammonia vats, utensils and machinery used exclusively in dairying, and also for the general transportation of freight of all classes, upon

demand, between Bouquet Canyon and Los Angeles, over and along the following route:

By main county highways and connecting roads to the State highway, thence southerly by State highway, via Mint Canyon or Bouquet Canyon, to Saugus and Newhall, and via San Fernando Road to Burbank and Los Angeles.

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.

O. W. Spaulding 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.

IT IS HEREBY ORDERED 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 S. A. Gates shall immediately unite with applicant O. W. Spaulding in common supplement to the tariffs on file with the Commission, applicant Gates on the one hand withdrawing, and applicant Spaulding on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Gates shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Spaulding shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Gates, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Gates, 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 Speulding 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 22<sup>d</sup> day of June,  
1928.

Leon Whitell  
C. Seavy

Wm. B. Smith

W. J. Linn  
COMMISSIONERS.