

Decision No. 20377

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 FRED A. ODER to sell, and S. B. COWAN)
 to purchase automobile freight lines) Application No. 15125
 operating between Los Angeles and)
 El Segundo and Manhattan Beach and)
 intermediate points.)

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

Fred A. Oder has applied to the Railroad Commission for an order approving the sale and transfer by him to S. B. Cowan of operating rights for an automotive trucking service for the transportation of property between Los Angeles and El Segundo and intermediate points and between Los Angeles and Redondo, Hermosa and Manhattan Beaches, and S. B. Cowan 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, 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 \$7000, of which sum \$4500 is said to represent the value of equipment and \$2500 is declared to be the value of intangibles, including local business of applicant Oder.

The operating rights herein proposed to be transferred were established as follows:

Decision No. 7553, dated May 10, 1920, and issued on
Application No. 5028 - Certificate granted to E. Reweller to operate trucking service "between Redondo, Hermosa, Manhattan and Los Angeles." It is noted that this certificate did not grant right to serve intermediate points.

Decision No.9115, dated June 18, 1921, and issued on Application No.6900 - Commission approves transfer by E. Reweller of right granted by Decision No.7553 to H. E. Schuricht.

Decision No.11842, dated March 29, 1923, and issued on Application No.8791 - Commission approves transfer of right acquired by H. E. Schuricht by Decision No.9115 to William F. Boehlert, expressly prohibiting joining up of right transferred with right between Gardena and Los Angeles owned by Boehlert.

Decision No.12446, dated August 2, 1923, and issued on Application No.9244 - Commission approves transfer by W. F. Boehlert of right acquired from Schuricht (Decision No.11842) to partnership consisting of E. C. Gray and A. F. Schwartz.

Decision No.13437, dated April 18, 1924, and issued on Application No.9930 - Commission approves transfer by A. C. Gray of his interest in right acquired by partnership of Gray and Schwartz (Decision No.12446) to Fred A. Oder, vesting ownership of right in partnership consisting of A. F. Schwartz and F. A. Oder.

Decision No.6527, dated July 30, 1919, and issued on Application No.4534 - Commission authorizes Merl R. Wagner to operate trucking service for the transportation of freight and express between Los Angeles and El Segundo and intermediate points, the application indicating service via and to El Segundo, Hawthorne, Hyde Park, Inglewood and Lennox and intermediate points.

Decision No.14578, dated February 18, 1925, and issued on Application No.10678 - Commission approves transfer of right granted to Merl R. Wagner (Decision No.6527) to A. F. Schwartz and F. A. Oder, denying authority to consolidate Wagner right with other right of Schwartz and Oder.

Decision No.15342, dated August 26, 1925, and issued on Application No.11628 - Commission approves transfer by A. F. Schwartz to F. A. Oder of his interest in above described operating rights. No authority to consolidate granted.

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, with the understanding, however, that the order herein does not convey authority to merge or consolidate the two rights herein transferred or the operation of the two services in any manner different than the manner authorized and as conducted by applicant Oder. Nor shall the order herein be construed by applicant Cowan as authority to link up, merge or consolidate the rights herein transferred with rights now owned by him.

S. B. Cowan 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 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 F. A. Oder shall immediately unite with applicant S. B. Cowan in common supplement to the tariffs on file with the Commission, applicant Oder on the one hand withdrawing, and applicant Cowan on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Oder shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Cowan shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Oder, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Oder, 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 Cowan 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 24th day of October, 1928.

Leon W. Hall

C. L. Seamy

John D. Smith

M. J. G.
COMMISSIONERS.