

Decision No. 20567

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 MC CONNELL HIRONS to sell, and)
 BEN LEVEL HIRONS to purchase an) Application No.15195
 automobile or freight line operated)
 between Fresno and Stratford,)
 California.)

BY THE COMMISSION -

OPINION and ORDER

Mc Connell Hirons has applied to the Railroad Commission for an order approving the sale and transfer by him to Ben Level Hirons of an operating right for an automotive trucking service between Fresno and Stratford, and Ben Level Hirons has asked 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 \$1000. Of this sum \$700 is declared to be the value of equipment and \$300 is said to be the value of intangibles.

The operating right herein proposed to be transferred was granted to Mc Connell Hirons by the Railroad Commission in its Decision No.17551, dated October 29, 1926, and issued on application No.12584. The right authorizes operation:

"***** of an automobile truck service for the transportation of freight as a common carrier between Fresno and Stratford, and from the intermediate point of Lemoore to Stratford (but excluding service from or to all other intermediate points) over and along the following route, viz: from Fresno via Elm Avenue to Hub, thence by County Highway to Lemoore, and thence by County Highway to Stratford."

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.

Ben Level Hiron 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 Mc Connell Hiron shall immediately unite with applicant Ben Level Hiron in common supplement to the tariffs on file with the Commission, applicant Mc Connell Hiron on the one hand withdrawing, and applicant Ben Level Hiron on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Mc Connell Hiron shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Ben Level Hiron shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Mc Connell Hiron, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Mc Connell Hiron 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 Ben Level Hiron 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 7th day of December, 1928.

Leon Whitell

O. L. Seaver

Edward J. ...

Thos. L. ...

COMMISSIONERS.