

Decision No. 20577.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application
of California Highway Express, a
corporation, to accept and the
petition of the National Warehouse
Company, a co-partnership, to assign and
set over a certificate of public conven-
ience and necessity.)
Application
No. 15019.

BY THE COMMISSION:-

ORIGINAL

OPINION and ORDER

National Warehouse Company, a co-partnership, composed of Robert W. Lacy, C.A. Nelson and Harold H. Hempe, has applied to the Railroad Commission for an order approving the sale and transfer by it to California Highway Express, a corporation, of an operating right for an automotive service for the transportation of property from Los Angeles Harbor to Los Angeles, and California Highway Express 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 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 the nominal sum of \$1.

The operating right herein proposed to be transferred was granted to Robert W. Lacy, C.A. Nelson and Harold H. Hempe by the Railroad Commission in its Decision No. 17755, dated December 13, 1926 and issued on Application No. 11959. Said decision authorized the copartnership to operate a

****motor freight service for the transportation of pianos and other musical instruments from Los Angeles Harbor to Los Angeles, and for no other service, over and along the following route: via Harbor Truck Boulevard."

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.

California Highway Express, a corporation, 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 National Warehouse Company, a co-partnership, shall immediately unite with applicant California Highway Express, a corporation, in common supplement to the tariffs on file with the Commission, applicant National Warehouse Company on the one hand withdrawing, and applicant California Highway Express on the other hand accepting and establishing such tariffs and all effective supplements thereto.
- 3- Applicant National Warehouse Company shall immediately withdraw time schedules filed in its name with the Railroad Commission and applicant California Highway Express shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicant National Warehouse Company which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant National Warehouse Company 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 California Highway Express unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

6- No authority is herein conveyed to California Highway Express to link up, join or merge the operating right herein transferred with operating rights now owned by it.

Dated at San Francisco, California, this 13th day of December, 1928.

Leon Whiteley

Secretary

Ernest Scott

M. M. Lane

COMMISSIONERS.