

Decision No. 20821

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 OLIVE L. BENNETTS, Administratrix, to  
 sell, and T. J. BENNETTS to purchase  
 certain interests in automobile freight  
 line operated between Fresno, Bass Lake,  
 Indian Mission and intermediate points.

) ORIGINAL

) Application No. 15275

BY THE COMMISSION -

OPINION and ORDER

Olive L. Bennetts, as Administratrix of the estate of Clois Bolton, has applied to the Railroad Commission for an order approving the sale and transfer by her to T.J. Bennetts, who with Clois Bolton, now deceased, operated an automotige trucking service between Fresno and The Pines, of Clois Bolton's interest in the operating right under which said service was conducted, and T. J. Bennetts has asked for authority to purchase and acquire said interest in said operating right and to hereafter operate the service as sole owner.

The consideration to be paid for the property herein proposed to be transferred is given as \$744.72.

Attached to the application herein, marked Exhibit "A", is a sworn statement by said Olive L. Bennetts, as Administratrix of the estate of said Clois Bolton, setting forth that by an order of the Superior Court of the County of Fresno, sale of the interest of Clois Bolton, deceased, in said operating right to T.J. Bennetts was approved, said order of approval having been granted on request of Olive L. Bennetts, Administratrix of the estate of Clois Bolton.

The operating right herein proposed to be transferred was originally established by J.P. Cackler. C.R.C. No. 1 filed by Cackler, and covering operations by him prior to May 1, 1917, shows service between Fresno and Oneals, Fine Gold, Adobe, Northfork and U.S. Government station, Power House, Mc Cabe Camp and Dam and The Pines. The route traversed is described as "via Friant, Oneal's

Fine Gold, Northfork and to The Pines." This tariff specifically declares "no freight is elicited for transportation between intermediate points." By Decision No.7281, dated March 18, 1920, and issued on Application No.5188 the Commission authorized Cackler to transfer the right thus established to Bert A. Hamilton and Oscar L. Dimmick, a co-partnership, who, in compliance with the order contained in said decision, published in their own names a tariff identical with that filed by Cackler. By Decision No.8534, dated January 11, 1921, and issued on Application No.6454 the Commission transferred the right to C.Bolton and T.J.Bennetts. Bolton and Bennetts republished the tariffs of Dimmick and Hamilton. By Decision No.9526, dated September 19, 1921, and issued on Application No.6779, Bolton and Bennetts were authorized to give service to Friant, South Fork and Indian Mission "in addition to the points now served by them between Fresno and The Pines." It is to be noted that under the original Cackler filing and by the orders of the Commission the right to operate covers only service between Fresno and the points named in the tariffs, with no authority to give service between the intermediate points. Before service "between intermediate points" may be given, authority to do so must be obtained from the Commission.

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.

T.J. Bennetts 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 Olive L. Bennetts, as Administratrix of the Estate of Clois Bolton and T. J. Bennetts shall immediately unite with applicant T.J. Bennetts in common supplement to the tariffs on file with the Commission, applicant Olive L. Bennetts as Administratrix of the Estate of Clois Bolton, and T.J. Bennetts, on the one hand withdrawing, and applicant T.J. Bennetts on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Olive L. Bennetts, as Administratrix of the Estate of Clois Bolton and T. J. Bennetts, shall immediately withdraw time schedules filed in the name of Bolton and Bennetts with the Railroad Commission, and applicant T.J. Bennetts shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicants Bolton and Bennetts, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Bolton and Bennetts, 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 T.J. Bennetts 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 26<sup>th</sup> day of December  
1928.

E. S. Sperry  
James G. Galt  
Thos. O. Bennett  
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COMMISSIONERS.