

Decision No. 20637

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of G.I. Reis to sell and C.B. Mc Clain)
to purchase an automobile freight)
truck line operated between Los) Application
Angeles, Huntington Beach, Laguna) No. 15258.
Beach and intermediate points.)

BY THE COMMISSION:--

ORIGINAL

OPINION and ORDER

G. I. Reis has applied to the Railroad Commission for an order approving the sale and transfer by him to C.B. Mc Clain of an operating right for an automotive service for the transportation of property between Los Angeles and beach points, and C.B. Mc Clain 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 of sale 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 \$9000. Of this sum \$6000. is said to represent the value of equipment, office fixtures, etc., and \$3000. is said to represent the value of intangibles.

The operating right herein proposed to be transferred was granted as follows:

By Decision No. 12803, dated November 7, 1923, on Application No. 9373, E.B. Webster, E.C. Twitchell, and Edwin B. Palmer, copartners, were granted a certificate of public convenience and necessity for the operation of an automotive truck line as a common carrier of freight between Los Angeles on the one hand and Los Alamitos, Westminster, Wintersburg, Huntington Beach, Costa Mesa, Newport and Balboa Beach;

By Decision No. 13007, dated January 9, 1924, on Application No. 9653, E.C. Twitchell and Edwin B. Palmer were authorized to transfer their interests in the copartnership of Webster, Twitchell and Palmer to Nelson L. Hawks;

By Decision No. 14196, dated October 23, 1924, on Application No. 10555, H.B. Webster and Nelson L. Hawks, copartners, were authorized to transfer this operating right to F.E. Tibbitts;

By Decision No. 15107, dated June 25, 1925, on Application No. 11247, F.E. Tibbitts was authorized to transfer the herein described operating right to G.I. Reis;

By Decision No. 15808, dated December 29, 1925, on Application No. 11246, G.I. Reis, the present owner, was granted authority for the operation "....of an automotive truck line as a common carrier of freight between Los Angeles and Laguna Beach not as a separate operative right but as an extension of the present operative right of applicant between Los Angeles and Balboa Beach and intermediate points...."

The right, therefore, proposed to be transferred by G.I. Reis, is a consolidated automotive right for the transportation of freight as a common carrier between Los Angeles and Laguna Beach and all intermediate points including Los Alamitos, Westminster, Wintersburg, Huntington Beach, Costa Mesa, Newport Beach and Balboa.

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.

C.B. McClain 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 C.I. Reis shall immediately unite with applicant C.E. Mc Clain in common supplement to the tariffs on file with the Commission, applicant Reis on the one hand withdrawing, and applicant Mc Clain on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Reis shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Mc Clain shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Reis which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Reis, 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 C.E. Mc Clain 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.

6- This order shall not become effective until there has been paid to the Railroad Commission the fee required by the Public Utilities Act and the Auto Stage and Truck Transportation Act in all evidences of indebtedness extending over a period of one year.

Dated at San Francisco, California, this 28th day of December 1928.

Leon Whiteley

Ch. Sweeney

Thomas L. Lattin

M. J. Cullen
COMMISSIONERS.

