

Decision No. 21448

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
 FORREST F. SULLIVAN (owner of the
 freight line known as the Red Line)
 to sell, and BERTHA L. DE LONG to
 purchase an automobile freight line
 operated between Los Angeles and
 Lancaster, California.

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) Application No. 15856
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BY THE COMMISSION -

OPINION and ORDER

Forrest F. Sullivan has petitioned the Railroad Commission for an order approving the sale and transfer by him to Bertha L. De Long of an undivided one-half interest in an operating right for an automotive service for the transportation of property between Los Angeles and Lancaster, and Bertha L. De Long has petitioned for authority to purchase and acquire said one-half interest in said operating right and to hereafter, with said Forrest F. Sullivan as a partner, 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 \$5000 cash. Of this sum \$4700 is declared to be the value of equipment and \$300 is declared to be the value of intangibles.

The operating right, a one-half interest in which is herein proposed to be transferred was originally established by M. O. Duncan and Walter Kielhofer who were authorized by Decision No. 8593, dated January 26, 1921, and issued on Application No. 6340, to operate an auto

*****freight service as a common carrier of freight, other than milk, cream, dairy products and supplies between Los Angeles and Lancaster, serving as intermediate points Newhall, Saugus, Mint Canyon, Vincent, Harold and Palmdale."

By Decision No.8742, dated March 14, 1921, and issued on Application No.6612, Duncan was authorized to dispose of his interest in the operating right to his partner. Kielhofer, by Decision No.10068, issued on Application No.7416 on February 8, 1922, transferred the right to a partnership consisting of M.O.Duncan and F.F.Sullivan. On April 20, 1925, Duncan, with the approval of the Commission (Decision No.14826 on Application No.11013) transferred his interest to Sullivan. The service has been operated under the name of Red Line Express.

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.

Forrest F. Sullivan and Bertha L. De Long are 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 Forrest F. Sullivan shall immediately unite with applicants Sullivan and De Long in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Sullivan on the one hand withdrawing, and applicants Sullivan & De Long on the other hand accepting and establishing such tariffs and all effective supplements thereto.

- 3- Applicant Sullivan shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicants Sullivan and De Long shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicant Sullivan, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Sullivan, 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 applicants Sullivan and De Long unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 12th day of

August, 1929.

Thos. D. Lott
Al. Seaver
Francis A. ...
Leon Whitely

COMMISSIONERS.