

Decision No. 21556

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 F. A. BENNETT and L. C. FAUS, doing
 business under the fictitious firm name
 of the Harbor Freight Transit Company
 to sell, and S. B. COWAN to purchase
 an automobile truck line.)
)
) Application
) No. 15927
)

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

F. A. Bennett and L. C. Faus, operating under the firm name
 and style of Harbor Freight/^{Transit} Company, have petitioned the Railroad
 Commission for an order approving the sale and transfer by them
 to S. B. Cowan of an operating right for an automotive service for
 the transportation of property between Los Angeles and Los Angeles
 Harbor (Wilmington and San Pedro), and S. B. Cowan has petitioned
 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 \$7951.97. Of this sum \$7941.97
 is declared to be the value of equipment and \$10.00 is declared to
 be the value of intangibles.

The operating right herein proposed to be transferred was
 granted to F. A. Bennett and L. C. Faus by the Commission's
 Decision No. 12421 of July 31, 1923, and as amended by Decision
 No. 12515 of August 21, 1923, on Application No. 8467 for the
 transportation of freight as common carriers " *** between
 Los Angeles proper and steamship wharves located at Los Angeles
 Harbor (Wilmington and San Pedro)."

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.

S. B. Cowan 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- Applicants Bennett & Faus shall immediately unite with applicant S.B.Cowan in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Bennett & Faus on the one hand withdrawing, and applicant S.B.Cowan on the other hand accepting and establishing such tariffs and all effective supplements thereto.
- 3- Applicants Bennett & Faus shall immediately withdraw time schedules in their names with the Railroad Commission and applicant S.B.Cowan shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicants Bennett & Faus, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Bennett & Faus, 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 S. B. Cowan 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 13th day of September, 1929.

Thos. J. Sullivan

Edward J. ...

Leon ...

M. J. ...

COMMISSIONERS.