

Decision No. 21698

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 CHARLES B. BACON to sell, and )  
 C. J. Mc INTOSH to purchase an ) Application No. 15965  
 automobile truck line between the )  
 southeast end of Dehesa Valley, )  
 Jamacha Valley and San Diego, Cal. )

BY THE COMMISSION -

OPINION and ORDER**ORIGINAL**

Charles B. Bacon has petitioned the Railroad Commission for an order approving the sale and transfer by him to C. J. Mc Intosh of an operating right for an automotive service for the transportation of property between San Diego and Dehesa and Jamacha Valleys, and C. J. Mc Intosh 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 \$700, all of which sum is declared to be the value of intangibles.

The operating right herein proposed to be transferred was established by Railroad Commission Decision No. 15535, dated October 15, 1925, and issued on Application No. 11505. Said decision authorizes Charles B. Bacon to operate an automotive service for the transportation of milk and other dairy products, feed and dairy supplies, and general freight and baggage, but not express, between the southeast end of Dehesa Valley, Jamacha Valley and San Diego; provided, however, that applicant shall perform no local service between San Diego and Lemon Grove, inclusive, but may make deliveries to any point intermediate to San Diego and Lemon Grove when commodities originate in or are destined to the Dehesa and Jamacha Valleys, over and along the following route:

From the village of Dehesa by main county road westerly to the junction of the road running south along the Sweetwater River to its junction with the Pobrero highway, and all points within seven miles easterly of said road, and thence over said road via Lomon Grove to San Diego, and vice versa;

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. J. Mc Intosh 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 Bacon shall immediately unite with applicant Mc Intosh in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Bacon on the one hand withdrawing, and applicant Mc Intosh on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Bacon shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicant Mc Intosh shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Bacon, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Bacon, 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 Mc Intosh 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 24<sup>th</sup> day of October, 1929.

Thos S. Smith  
Ch. Scamney  
James E. Edwards  
Leon O. Whelan  
W. J. Lewis  
Commissioners.