

Decision No. 27024

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	}	Application No. 16127
P. E. TIBBETTS to sell, and		
MOTOR SERVICE EXPRESS to purchase an		
automobile freight line operated between		
Los Angeles on the one hand, and Perris,		
Ethanac, San Jacinto and Hemet, on the	}	
other hand.		

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

P. E. Tibbetts has petitioned the Railroad Commission for an order approving the sale and transfer by him to Motor Service Express, a corporation, of an operating right for an automotive service for the transportation of property between Los Angeles, and Perris, Ethanac, San Jacinto, Hemet and other points, and Motor Service Express 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 \$18,650. Of this sum \$10,250 is declared to be the value of equipment and \$8600 is declared to be the value of intangibles.

The records of the Railroad Commission show that the operating right herein proposed to be transferred was established as follows:

Decision 6426, dated June 25, 1919, on Application No. 4586, granted to R. S. Smith and George Wiegand, operating under the name W & S Truck Company, a certificate for the operation

".....of an automobile truck line as a common carrier of freight between Los Angeles, San Jacinto and Temecula, provided, however, that this certificate does not authorize the handling of local shipments between Los Angeles and Riverside, including the City of Riverside, nor the receipt or delivery of any freight at points intermediate between the City of Riverside and the City of Los Angeles;"

Decision 10468, dated May 17, 1922, on Application 7679 authorized William Wiegand to acquire the interest of R. S. Smith in the certificate granted in Application 4586. In regard to this operating right the opinion of Decision 10486 states as follows:

"The main question in the transfer was as to what portion of the original right was being sold. The present operation is from Los Angeles to Ferris, Ethanac, San Jacinto and Hemet. Originally the right included Elsinore, Temecula and Murietta, but these points were abandoned when a permit was granted to the Murietta Valley Motor Freight Line, which has since served them.

To clear the records, applicants have filed their joint stipulation that only the right to operate from Los Angeles to Ferris, Ethanac, San Jacinto and Hemet is being transferred, and that they relinquish all claim to any right to operate to Elsinore, Temecula and Murietta."

Decision 11174, dated October 27, 1922, on Application 8353, authorized William Wiegand to transfer to George Wiegand his interest in the next hereinabove described operating right.

Decision 12646, dated September 20, 1923, on Application 9382 authorized George Wiegand to sell to P. E. Tibbetts the hereinabove described operating right.

Decision 21831, dated November 26, 1929, on Application 15688, granted a certificate to P. E. Tibbetts, operating under the name and style of Anza Trail Truck Line, for the operation:

"..... of a motor truck service as a common carrier of freight between San Jacinto and San Bernardino, serving Hemet, Romoland, Perris and intermediate points, and within a radius of five miles on either side of the state highway traversed; provided, however, that no service shall be rendered locally between Riverside and San Bernardino and points intermediate between Riverside and San Bernardino.

"IT IS HEREBY ORDERED that a certificate of public convenience and necessity for the hereinabove described service be and the same is hereby granted to said applicant as an extension of his present authorized truck service between Los Angeles and San Jacinto,"

An analysis of the above descriptions indicates that applicant P. E. Tibbetts has a consolidated operating right for the transportation of freight by automotive truck between Los Angeles and San Jacinto and intermediate points via Riverside, Perris, Romoland and Hemet, including an extension to San Bernardino with lateral rights within a radius of five (5) miles of the main highway traveled:

Provided - that no service may be given locally between Los Angeles and Riverside and intermediate points including Riverside and further,
Provided - that no service may be given locally between Riverside and San Bernardino and intermediate points.

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, with the provision, however, that Motor Service Express, a corporation, may not charge to its plant and equipment accounts more than \$10,250. Any sum paid in excess of \$10,250 for the aforementioned properties must be charged to Account No.315, "Miscellaneous Charges to Income."

Motor Service Express, a corporation 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 P. E. Tibbetts shall immediately unite with applicant Motor Service Express in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Tibbetts on the one hand withdrawing, and applicant Motor Service Express on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Tibbetts shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicant Motor Service Express shall immediately file, in duplicate, in its own name, time schedules covering service heretofore given by applicant Tibbetts, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Tibbetts, 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 Motor Service Express unless such vehicle is owned by said applicant, or is leased by it 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 to be paid on all evidences of indebtedness extending over a period of one year, in this instance the minimum fee of \$25.00.

Dated at San Francisco, California, this 20th day of December, 1929.

Paul D. Lott

Ch. Seavey

Ernie Scott

Leon Oswald

W. P. Carr
Commissioners.

Fee \$ 25 ⁰⁰/₁₀₀

W. M. Matthews
Fee # 27441