

Decision No. 22122

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
O. R. BENEDICT and H. E. MOORMAN to
sell, and J. NELSON BENEDICT and
EDGAR T. BROWN to purchase an auto-
mobile freight line operated between
Los Angeles, Huntington Park and
intermediate points.

ORIGINAL

Application
No. 16195

BY THE COMMISSION -

OPINION and ORDER

O. R. Benedict and H. E. Moorman have petitioned the Railroad Commission for an order approving the sale and transfer by them to J. Nelson Benedict and Edgar T. Brown of an operating right for an automotive service for the transportation of property between Los Angeles and Huntington Park and intermediate points, and J. Nelson Benedict and Edgar T. Brown have 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 \$3200. Of this sum \$2200 is declared to be the value of equipment, and \$1000 is declared to be the value of intangibles.

The operating right herein proposed to be transferred is a consolidation of two operating rights, one established by Benedict & Moorman and the other by Frank J. Dresman. They were consolidated by Decision No. 19774, issued on Application No. 14618 on May 17, 1928, and transferred to Shepherd and Riddle. Benedict & Moorman re-acquired the consolidated right by Decision No. 21564, dated September 17, 1929, and issued on Application No. 15945. Each of the operating rights was established through proper tariff filing showing operation prior to May 1, 1917. C.R.C. No. 1 of

Benedict & Moorman shows service for the transportation of freight between Los Angeles and Huntington Park, no service to intermediate points being indicated. C.R.C. No.1 of Frank J. Dresman shows service for the transportation of freight between Los Angeles and Huntington Park and intermediate points. The intermediate points are shown as Vernen, Bell, Florence, Graham Station, Meramonte, Watts, Cudahy Ranch, Walnut Park, Fruitland and South Gate Gardens. The tariff also contains a provision that rates to points intermediate are not to exceed the rates to the place "next beyond on direct route." The consolidated right will, therefore, give to the new owners the right to transport freight between Los Angeles and Huntington Park and all intermediate points along the route indicated by the points named in C.R.C. No.1 of Frank J. Dresman.

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.

J. Nelson Benedict and Edgar T. Brown 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- Applicants Benedict & Moorman shall immediately unite with applicants Benedict & Brown in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Benedict & Moorman on the one hand withdrawing, and applicants Benedict & Brown on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Benedict & Moorman shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicants Benedict & Brown shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicants Benedict & Moorman, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the names of applicants Benedict & Moorman, 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 Benedict & Brown 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.

6- In recording the transaction on their books of account applicants may charge to their fixed capital account not more than \$2200.

Dated at San Francisco, California, this 11th day of February,
1930.

C. C. Leaver

E. M. ...

Paul ...

Commissioners.