

Decision No. 22617

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 E. W. SULLIVAN to sell, and
 CECIL R. and W.L. IREY to purchase
 an automobile freight line operated
 between Manteca and Stockton, California.

ORIGINAL
 Application
 No. 16638

BY THE COMMISSION -

OPINION and ORDER

E. W. Sullivan has petitioned the Railroad Commission for an order approving the sale and transfer by him to Cecil R. IreY and W. L. IreY, a co-partnership, of an operating right for an automotive truck service for the transportation as common carriers of property between Stockton and Manteca, without intermediate rights, and Cecil R. and W. L. IreY, co-partners, 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 as set forth in the application.

The consideration to be paid for the property herein proposed to be transferred is given as \$2000.00. Of this sum \$1500 is declared to be the value of equipment and \$500 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was established by Decision No. 9895 of December 20, 1921, in Application No. 6264 in which it was found that D. H. Maley and E. W. Sullivan, the applicants therein, were in fact operating prior to May 1, 1917, and continuously to the time of hearing on said Application No. 6264, said Decision No. 9895 declaring as follows:

"...that public necessity and convenience require the continued operation by D. H. Maley and E.W. Sullivan, under the co-partnership name of Maley and Sullivan, of an automotive through truck service as a common carrier of freight between Stockton and Manteca, not serving any 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.

Cecil R. and W. L. Irey 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 E. W. Sullivan shall immediately unite with applicants Cecil R. and W. L. Irey in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant E.W.Sullivan on the one hand withdrawing, and applicants Cecil R. and W. L. Irey on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant E. W. Sullivan shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicants Cecil R. and W. L. Irey shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicant E. W. Sullivan, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant E.W.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 Cecil R. and W. L. Irey 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 1st day of

July, 1930.

C. L. Seaver
Edmund H. ...

Thos. B. ...

COMMISSIONERS.