

Decision No. 22633

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 S. B. COWAN)
 to sell and Rice Transportation Com-)
 pany, a corporation, to purchase)
 certain automobile freight lines)
 belonging to S. B. Cowan and to issue)
 stock of said Rice Transportation)
 Company, a corporation, in payment)
 therefor.)

Application No. 16633

Davis & Thorne, for applicants.

BY THE COMMISSION:

O P I N I O N

In this proceeding the Railroad Commission is asked to make its order authorizing S. B. Cowan to sell and transfer to Rice Transportation Company, a corporation, his automotive lines, equipment and rights to which reference is made herein and authorizing the corporation to issue \$37,332.00 of its common capital stock in payment.

The application shows that both applicants are engaged in the business of transporting freight by auto trucks in the southern part of the State. Rice Transportation Company, a corporation organized during 1921, is conducting its operations between Los Angeles, Culver City, Palms, Venice, Ocean Park, Santa Monica, Pacific Palisades, Sawtelle, Brentwood, Beverly Hills, Sherman, Hollywood and intermediate points. The operations of S. B. Cowan are set forth in the description of the operative rights and properties he now proposes to transfer to Rice Transportation Company, as follows:

1. That certain line operated by said S. B. Cowan under the name of Los Angeles-Compton Transportation Company between Los Angeles and Compton and intermediate

points as acquired by S. B. Cowan under Application No. 13865 and granted by the Railroad Commission by Decision No. 18562 dated June 28th, 1927.

2. That certain operative right operated by S. B. Cowan under the name of Burbank Transfer Line between Los Angeles, Glendale and Burbank, pursuant to permit heretofore granted by the Railroad Commission by Decision No. 18948 dated October 25th, 1927.

3. That certain operative right between Los Angeles and El Segundo and intermediate points, and between Los Angeles and Redondo, Hermosa and Manhattan Beach heretofore granted to S. B. Cowan by permit under Decision No. 20377 dated October 24th, 1928, same having been operated by said S. B. Cowan under the name Redondo and Los Angeles Transfer and Inglewood and Los Angeles Transfer, respectively.

4. All operative rights of the said S. B. Cowan used and acquired by said S. B. Cowan operating under the name of Triangle Orange County and Santa Ana Express between Los Angeles and points heretofore served by said S. B. Cowan as shown in Tariff CRC No. 1, and acquired by him prior to 1917, and Olinda, El Modeno and Olive pursuant to permit granted said S. B. Cowan by Decision No. 9330 granted August 8th, 1921.

5. All operative rights between Santa Ana, Tustin and Dyer acquired by said S. B. Cowan under Decision No. 9552 granted September 23rd, 1921.

6. All operative rights between Long Beach, San Pedro and Wilmington (Los Angeles Harbor District) and Garden Grove, Santa Ana, Anaheim, Orange, Olive, Tustin, Sugar and Fullerton pursuant to permit granted under Decision No. 12969 dated December 31st, 1923.

Together with certain equipment used by said S. B. Cowan in the aforesaid operations.

Rice Transportation Company has an authorized capital stock of \$100,000.00, consisting of 100,000 shares of the par value of \$1.00 each, and divided into \$50,000.00 of common and \$50,000.00 of preferred stock. At present only \$12,668.00 of the common stock is outstanding, all of which, excepting two directors' shares, is reported in the company's 1929 annual report as being held by S. B. Cowan.

The company now, in consideration for the transfer of the rights and properties of S. B. Cowan, proposes to issue to him the remainder of its authorized stock amounting to \$37,332.00. Of

the transfer price, \$30,250.00 is said to represent the value of equipment consisting of some fifty trucks and trailers, together with miscellaneous equipment, as set forth in detail in Exhibit "A", and \$7,082.00 the value of operative rights and intangibles. An examination indicates that the latter amount represents expenditures made by the original grantee in acquiring operative rights and for similar purposes, and it herefore occurs to us that the request to issue the stock might be granted.

In connection with the transfer of the operative rights, it should be noted that no request is made to consolidate such rights or to combine them with the rights now held by Rice Transportation Company, and the order herein accordingly should not be construed as granting permission to combine and consolidate such rights. Further, at this point, we wish to place the purchaser 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 extent 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.

ORDER

S. B. Cowan and Rice Transportation Company having applied to the Railroad Commission for an order authorizing the transfer of operative rights and equipment and the issue of stock, and the Commission being of the opinion that this is not a matter in which a public hearing is necessary, that the application should be granted as herein provided, and that the money, property or labor to be procured

or paid for through the issue of the stock is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED that S. B. Cowan be, and he hereby is, authorized to transfer to Rice Transportation Company his operative rights and equipment referred to in the foregoing opinion and described in this application.

IT IS HEREBY FURTHER ORDERED that Rice Transportation Company be, and it hereby is, authorized to issue, on or before December 31, 1930, \$37,332.00 of its common capital stock in payment for the said rights and equipment of S. B. Cowan.

The authority herein granted is subject to the following conditions:

(1) S. B. Cowan and Rice Transportation Company shall join in common supplement to the tariffs now on file with the Railroad Commission in the name of S. B. Cowan, applicant S. B. Cowan on the one hand withdrawing and applicant Rice Transportation Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.

(2) S. B. Cowan shall withdraw immediately all time schedules filed with the Railroad Commission in his name, and Rice Transportation Company shall file, in duplicate, in its own name time schedules which shall be identical with those now on file in the name of S. B. Cowan, or time schedules satisfactory to the Commission.

(3) The rights and privileges herein authorized to be transferred may not hereafter be sold, leased, transferred or assigned, or service thereunder discontinued unless written consent of the Railroad Commission is first secured.

(4) No vehicle may be operated by Rice Transportation Company unless such vehicle is owned by it or is leased by it under a

contract or agreement on a basis satisfactory to the Commission.

(5) Rice Transportation Company shall keep such record of the issue of the stock herein authorized as will enable it to file, within thirty days thereafter, a verified report, as required by the Railroad Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.

(6) The authority herein granted will become effective upon the date hereof.

DATED at San Francisco, California, this 9th day of July, 1930.

Ernest

David L. ...

M. J. ...
Commissioners.