

Decision No. 22782

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
S. B. COWAN
to sell and Donovan Transportation Co.,
a corporation, to purchase certain
automobile freight lines belonging to
S. B. Cowan and to issue stock of said
Donovan Transportation Co., in payment.)

ORIGINAL

Application No. 16742

Davis and Thorne, by Leland S. Davis,
for applicants.

BY THE COMMISSION:

O P I N I O N

In this application the Commission has been asked to make its order authorizing S. B. Cowan to sell and transfer certain auto truck operative rights and properties to Donovan Transportation Co., a corporation, and authorizing said corporation to issue \$25,710.00 of its common capital stock in payment for said operative rights and properties.

The record shows that both parties to the application are engaged in the business of transporting freight by auto trucks in Los Angeles County. S. B. Cowan, doing business under the firm name and style of Harbor Freight Transit Company, under authority granted by Decision No. 21556, dated September 13, 1929, in Application No. 15927, is operating between Los Angeles and steamship wharves located at Los Angeles Harbor (Wilmington and San Pedro) while Donovan Transportation Co. conducts its business between Long Beach on the one hand and Santa Monica on the other,

via Wilmington, San Pedro, Redondo, etc., as permitted by Decision No. 13351, dated March 29, 1924 on Application No. 9773, and Decision No. 14103, dated September 27, 1924, on Application No. 10008.

It appears that Donovan Transportation Co. has an authorized capital stock of \$50,000.00, divided into 50,000 shares of the par value of \$1.00 each, all common, of which \$15,855.00, authorized by the Commission by said Decision No. 13351, is outstanding. It seems that all of the outstanding stock, excepting directors' shares, is owned by S. B. Cowan, who now proposes to transfer the operative rights referred to herein, now owned individually, to the corporation.

The consideration for the operating rights and properties is \$25,710.00, which, it is proposed, will be paid by the corporation through the issue to S. B. Cowan of \$25,710.00 of its stock. Of the proposed price, \$10.00 is said to represent the value of the operating rights and \$25,700.00 the estimated present value of the properties. These properties, according to Exhibit "A", include twenty-four trucks and trailers, together with office furniture and fixtures.

In connection with the transfer of the operative rights it should be noted that no request is made to consolidate or unify such rights with those of Donovan Transportation Co., and the order herein should not be construed as granting permission to so consolidate and unify them. Further, 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 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 in the number of rights which may be given.

O R D E R

S. B. Cowan and Donovan Transportation Co., having applied to the Railroad Commission for an order authorizing the transfer of operative rights and properties and the issue of stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion 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, doing business under the firm name and style of Harbor Freight Transit Company be, and he hereby is, authorized to sell to Donovan Transportation Co., a corporation, the operative rights and properties referred to in the foregoing opinion and described in this application.

IT IS HEREBY FURTHER ORDERED that Donovan Transportation Co. be, and it hereby is, authorized to purchase and acquire from S. B. Cowan said operative rights and properties, and to issue in payment, on or before December 31, 1930, \$25,710.00 of its common capital stock.

The authority herein granted is subject to the following conditions:-

1. The consideration to be paid for the properties 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 purposes other than the transfer herein authorized.

2. S. B. Cowan and Donovan Transportation Co. shall join immediately in common supplement to the tariffs on file with the Commission, S. B. Cowan on the one hand withdrawing and Donovan Transportation Co. on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. S. B. Cowan shall withdraw immediately time schedules filed in his name with the Railroad Commission, and Donovan Transportation Co. shall file, in duplicate, in its own name, time schedules covering service heretofore given by S. B. Cowan, which time schedules shall be identical with those now on file in the name of S. B. Cowan, or time schedules satisfactory to the Commission.
4. The rights and privileges herein authorized to be transferred may not hereafter be sold, leased, transferred nor assigned, nor service thereunder discontinued, increased or changed, by Donovan Transportation Co. unless written consent of the Railroad Commission has first been secured.
5. No vehicle may be operated by Donovan Transportation Co. under the authority granted, 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. Donovan Transportation Co. 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.

7. The authority herein granted will become effective upon the date hereof.

DATED at San Francisco, California, this 13th day of August, 1930.

C. L. Sawyer
Samuel B. ...
Leon ...
Thos. S. ...
W. P. ...
Commissioners.