



money and credit needed to acquire the certificate rights and equipment from Mrs. Reed, and that Green contributed nothing. He was, however, to control the business and pay its obligations out of profits. According to Smith, Green failed as a manager, the business got into financial difficulties and in August, 1929, the partnership was dissolved (Exhibit "D" attached to the application), Green retiring, and Mr. and Mrs. Smith continued the business under the management of C.A. Moore. The fact that the partnership was dissolved and that Green was paid a nominal \$1.00 for his interest was not brought before the Commission by proper proceeding for transfer through no fault of the Smiths, who, as Mr. Smith testified, "not knowing, that we depended on our lawyers". It now appears the present proceeding is, essentially, one to cure all defects and to establish the certificate rights in the Smiths alone by a new grant to them.

The record shows that Smith and his wife are elderly, retired persons of means with no knowledge or experience of truck transportation and no desire to engage in it, except to protect a benevolent investment. The record also shows that efforts to serve process on Green in the present proceeding were unsuccessful and Smith testified he had not heard from Green since August, 1929. It appears proper, under the facts, to recognize the dissolution of partnership and approve the transfer of interest as shown therein and to grant a certificate de novo to the Smiths in lieu of all previous rights for such operating rights as now appear proper without any enlargement on the original grant. Such an order will be entered, including minor amendments to the rates, as shown reasonable at the hearing.

Willard P. Smith and A. Elizabeth Smith 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.

. O R D E R

Willard P. Smith and A. Elizabeth Smith, husband and wife and copartners, having made application to the Railroad Commission for a certificate of public convenience and necessity to establish certain zones and routes for the transportation of milk, dairy products, dairy feed and supplies and to confirm in applicants the operative rights heretofore granted to Willard P. Smith, A. Elizabeth Smith and Henry A. Green, and to approve transfer of rights of Henry A. Green in said partnership to applicants, and for a certificate de novo in lieu of all previous rights of applicants, their co-partners and predecessors, a public hearing having been held, the matter having been duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by Willard P. Smith and A. Elizabeth Smith, co-partners, of automotive transportation service for the transportation of milk, cream and dairy products, and for the back haul of dairy supplies and empty containers to no others than dairymen shippers using this service between ranches in that portion of the City of Los Angeles north of Ventura Boulevard and its prolongation easterly to the San Fernando Road, and the cities of Burbank, Glendale and Los Angeles and intermediate points, serving only the dairies located in the territory along the following pickup routes, and three (3) miles each side thereof, which pickup routes are in the San Fernando Valley, to wit:-

PICKUP ROUTES

(a) Beginning at the intersection of Reseda Avenue and Devonshire Street, near Granada; thence easterly along Devonshire Street to Payton Avenue; thence southeasterly along Payton Avenue to Osborne Avenue; thence northeasterly along Osborne Avenue to Tujunga Valley Avenue; thence easterly along Tujunga Valley Avenue to its intersection with Central Avenue and Hansen Street near the town of Sunland;

(b) Beginning at the intersection of Reseda Avenue and Saticoy Street near the town of Reseda; thence east along Saticoy Street to Van Nuys Boulevard; thence south along Van Nuys Boulevard to Victory Boulevard; thence easterly along Victory Boulevard to its intersection with San Fernando Road.

The trucks of the applicants may be operated and routed over the above pickup routes in a manner to give the most economic and efficient service, provided that no service of any kind may be given to or from any dairies located without the territory included within the zone bounded as follows:

Commencing at the intersection of San Fernando Road and Alameda Avenue, near the town of Burbank; thence along said San Fernando Road in a northwesterly direction to its intersection with Hansen Street thence northeasterly along Hansen Street to its intersection with Michigan Avenue in Sunland, thence northwesterly along Michigan Avenue to Tujunga Valley Avenue, thence westerly along Tujunga Valley Avenue to Osborne Avenue, thence southwest along Osborne Avenue to Mullholland Street, thence northwest along Mullholland Street to Van Nuys Blvd., thence southwesterly along Van Nuys Blvd. to Webb Street, thence northwesterly along Webb Street to Rinaldi Street, thence westerly along Rinaldi Street to its intersection with Reseda Avenue, thence in a southerly direction along Reseda Avenue to the intersection of Sherman Way in Reseda. Thence east along Sherman Way to Van Nuys Blvd., thence south along Van Nuys Blvd., to Ventura Blvd., thence easterly on said Ventura Blvd. to Pacoima Avenue, thence north on Pacoima Avenue to Riverside Drive, thence easterly on Riverside Drive and Alameda Avenue to San Fernando Blvd. to the point of commencement.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted to Willard P. Smith and A. Elizabeth Smith, husband and wife and co-partners,

subject to the following conditions:

- 1- Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
- 2- Applicants shall file in duplicate and make effective within a period of not to exceed thirty (30) days from the date hereof a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application insofar as they conform to the certificate herein granted.
- 3- Applicants shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof time schedules, covering the service herein authorized, in a form satisfactory to the Railroad Commission.
- 4- The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
- 5- No vehicle may be operated by applicants herein 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.

IT IS HEREBY FURTHER ORDERED that all rights or certificates granted under Decision No. 15797 in Application No. 11267, Decision No. 19697 in Application No. 14442 and Decision No. 20703 in Application No. 15314 be and the same hereby are revoked and annulled, said revocation and annulment to become effective whenever applicants herein shall accept the certificate herein granted.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 24th day of

February 1931.

C. L. Stewart  
Leon A. Russell  
W. H. Lewis  
M. B. Hayes  
James G. Stewart  
COMMISSIONERS.