

ORIGINAL

Decision No. 23481

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 EMIL BONENSO to sell, and MAURICE LOVEY)
 to buy one half interest in certificate)
 of public convenience and necessity to)
 operate automobile truck line between)
 Bakersfield and Taft, Maricopa and) Application
 Mc Kittrick and intermediate points, and) No.17232
 one half interest in physical property)
 used in the operation of said certificate,)
 all of which is now owned in equal parts)
 by partnership consisting of Emil Bonenso)
 and Frank Caudana.)

BY THE COMMISSION -

OPINION and ORDER

Emil Bonenso and Frank Caudana have petitioned the Railroad Commission for an order approving the sale and transfer by them to Frank Caudana and Maurice Lovey of operating rights for automobile service for the transportation of property between Bakersfield, Taft, Maricopa and Mc Kittrick, and Frank Caudana and Maurice Lovey, co-partners, have petitioned for authority to purchase and acquire said operating rights and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement set forth in the application.

The consideration to be paid for the property herein proposed to be transferred is given as \$3600.00. Of this sum \$2600.00 is declared to be the value of equipment and \$1000.00 is declared to be the value of intangibles.

The operating rights herein proposed to be transferred were established as follows:

Decision No.5602 of July 26, 1918, in Application No.3843, granted a certificate to Joe Besone to operate an automotige express and freight service between Bakersfield, Taft, Fellows and intermediate points in Kern County,

Decision No.7784 of June 24, 1920, authorized the operation by Joe Besone, operating under the name of Joe Besone Service Motor Express, of an automobile freight line as a common carrier of freight between Fellows and Mc Kittrick and intermediate points and Taft and Maricopa and intermediate points.

Decision No.11237 of November 14, 1922, in Application No.8241, authorized Besone to give "... a local and through service for the common carriage of freight between Bakersfield, Taft, Fellows and Maricopa, and between Bakersfield, Taft, Fellows and Mc Kittrick."

Decision No.18352 of May 14, 1927, in Application No.13747, authorized Bonenzo and Caudana, two of the applicants herein, to acquire the above described operating right from Besone.

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.

Caudana and Lovey 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 Caudana and Lovey shall immediately unite with applicants Caudana and Bonenzo in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Caudana and Bonenzo on the one hand withdrawing, and applicants Caudana and Lovey on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicants Caudana and Bonenso shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicants Caudana and Lovey shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicants Caudana and Bonenso, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Caudana and Bonenso, 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 Caudana and Lovey 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 9th day of March,
1931.

O. C. Lewis
Leon White
M. J. Lewis
M. B. Harris
Frederic G. Stewart
COMMISSIONERS.