

Decision No. 24792

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
IREY BROTHERS to sell, and)	
JOHN T. SMITH to purchase a truck)	Application No.18138
freight line between Stockton)	
and Manteca, California.)	

BY THE COMMISSION -

OPINION and ORDER**ORIGINAL**

Cecil R. Ireys and W. L. Ireys, co-partners, have petitioned the Railroad Commission for an order approving the sale and transfer by them to John T. Smith of an operating right for an automotive service for the transportation of property between Stockton and Manteca, and John T. Smith has 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, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$1500.00. Of this sum \$750.00 is declared to be the value of equipment and \$750.00 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was created by bona fide operations prior to May 1, 1917, by D. E. Maley and E. W. Sullivan and confirmed by Decision No.9895, dated December 20, 1921, on Application No.6264, for the automotive transportation of through freight, without intermediates, between Stockton and Manteca. This right was transferred to Cecil R. and W. L. Ireys by Decision No.22617, dated July 1, 1930, on Application No.16638.

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.

John T. Smith is 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 Cecil R. and W. L. Irey shall immediately unite with applicant John T. Smith in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Cecil R. and W. L. Irey on the one hand withdrawing, and applicant John T. Smith on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants Cecil R. and W. L. Irey shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicant John T. Smith shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicants Cecil R. and W. L. Irey, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant John T. Smith 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 applicant John T. Smith unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 23rd day of Ma., 1932.

D. S. Leary
Leon Whiteley

W. H. Kim
J. M. S. Lane
Fred G. Peterson