

Decision No. 25530

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
T. J. WADE, doing business as WADE
SHIPPING CO., to sell and W. E.
FESSENDEN to buy operative rights
and privileges under certificate of
public convenience and necessity to
operate an automobile truck line and
transport freight between Los Angeles
and the steamship docks and wharves
at Los Angeles Harbor (San Pedro and
Wilmington).

ORIGINAL

Application No. 18613

H. M. Wade for applicants.

BY THE COMMISSION:

OPINION AND ORDER

T. J. Wade, doing business under the firm name and style of Wade Shipping Company, and W. E. Fessenden have petitioned the Railroad Commission for an order approving the sale and transfer by T. J. Wade to W. E. Fessenden of a certificate of public convenience and necessity permitting him to operate an automotive service as a common carrier of property for compensation between Los Angeles and Los Angeles Harbor (San Pedro and Wilmington). The sale and transfer is to be made in accordance with an agreement dated July 8, 1932, a copy of which, marked Exhibit "A", is attached to the petition in this proceeding.

The certificate of public convenience and necessity herein proposed to be transferred was granted by Decision No. 14404, dated December 27, 1924, in Application No. 9584. The consideration to be paid is \$7,500.00, of which \$1,500.00 was paid at the date of the agreement, \$2,000.00 is payable at the time the Commission authorizes the transfer of the certificate and \$4,000.00 will be evidenced by a promissory note to be dated December 17, 1932, to bear interest at the

rate of one-half of one per cent per month and to be payable in monthly installments of \$200.00 commencing February 1, 1933.

In line with our practice in former proceedings, we wish to place the purchaser, W. E. Fessenden, upon notice that an operating right does not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from its purely permissive aspect, it extends 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.

Applicants present no facts which warrant a finding that the \$7,500.00, or any part thereof, may be charged to plant and equipment accounts.

The Commission is of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED, that T. J. Wade, doing business under the firm name and style of Wade Shipping Company, be, and he hereby is, authorized to transfer to W. E. Fessenden, on or before March 31, 1933, the certificate of public convenience and necessity granted him by Decision No. 14404, dated December 27, 1924, and referred to herein, and W. E. Fessenden be, and he hereby is, authorized, in part payment, to issue his promissory note, or notes, in the total principal amount of \$4,000.00, payable in monthly installments of \$200.00, with interest at the rate of one-half of one per cent per month.

The authority herein granted is 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 public body as a measure of value of said property for rate fixing or any purpose other than the transfer herein authorized.

2. Applicant T. J. Wade shall immediately unite with applicant W. E. Kessenden in common supplement, to be filed in triplicate, to the tariffs on file with the Commission covering service given under the certificate herein authorized to be transferred, applicant T. J. Wade on the one hand withdrawing, and applicant W. E. Kessenden on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant T. J. Wade shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant W. E. Kessenden shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant T. J. Wade, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant T. J. Wade, 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 W. E. Kessenden 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.

6. Applicant W. E. Kessenden shall keep such record of the issue of the note herein authorized as will enable him 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 when W. E. Fessenden has paid the minimum fee prescribed by Section 57 of the Public Utilities Act and Section 6 of the Auto stage and Truck Transportation act, which fee is Twenty-five (\$25.00) Dollars.

DATED at San Francisco, California, this 9th day of January, 1933.

C. C. Secor
Leon Whitney
W. J. Lee
W. B. Manning
Robert Brown
Commissioners.

Fee \$ 25 ⁰⁰/₁₀₀
RAILROAD COMMISSION
STATE OF CALIFORNIA
JAN 11 1933
[Signature]
Fee # 80052