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Decision No. 10248.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of )  
H. J. HARTSELL to sell and F. E. SMITH )  
to purchase an automobile transportation : Application No. 7573  
line operated between Mission Acres, Van )  
Nuys, Lankershim and Los Angeles, Calif- )  
ornia.

BY THE COMMISSION,

ORDER

In the proceeding entitled as above, applicant H. J. Hartsell petitions the Railroad Commission for permission to sell and F. E. Smith for permission to purchase a certain automobile truck line at the present time operated between Mission Acres, and Los Angeles, via Van Nuys, Lankershim and Burbank.

The operative right herein proposed to be transferred was obtained by H. J. Hartsell under Decision No. 9573 in Application No. 7191, dated September 29th, 1921, which decision authorizes the transfer of the above entitled operative right from one E. Paggi to H. J. Hartsell. Such operative right authorizes the operation of an automobile truck line as a common carrier of milk and dairy products between the points above mentioned. This certificate, however, is limited to the transportation of milk and dairy products to Los Angeles and only to such return shipments as may be destined from Los Angeles to various ranches and other shippers from whom milk is collected and transported to Los Angeles. The return shipments to consist only of grain, mill stuff, food and other products or merchandise

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necessary in the conduct of dairy business and in no way authorizes the general carriage of freight.

The consideration proposed to be paid is given as the sum of \$6,000.00 and the property proposed to be transferred is given as one 2½-ton Moreland truck, one Ford truck, one two wheel trailer, together with milk route and franchise.

From the records of this Commission it would appear that the property and right herein proposed to be transferred was purchased by applicant Hartsell under authority of this Commission on September 29th, 1921 for the sum of \$4,750.00. Since such purchase, applicant Hartsell has added a Ford truck and one trailer to the equipment and now proposes to sell such property for the sum of \$6,000.00, after operating for only a period of a few months.

It appears to this Commission that there has been considerable speculation in so-called milk route franchises in the Los Angeles territory; that such franchises have been bought and sold at frequent intervals and that these continual transfers do not have a tendency to establish a reliable and dependable means of transportation for the class of commodity which they handle. While we will authorize the granting of the application at present before this Commission, it might be stated at this time that hereafter this Commission will look with considerable disfavor upon the buying and selling of operative rights authorizing the operation of truck lines engaged in the transportation of milk and dairy products, unless good and sufficient reasons are shown why the existing operator is unable to carry on such business.

Furthermore, in authorizing the transfer of an operative right and equipment at a price agreed upon by the applicants, it will be distinctly understood that the Railroad Commission in no way passes upon the value of the property proposed to be transferred, other than insofar as is necessary for the purposes of the present proceeding.

It appearing to the Commission that this is a matter in which a public hearing is not necessary and that the application should be granted,

IT IS HEREBY ORDERED that the above entitled application be, and the same hereby is granted, subject to the following conditions:

1. That applicant F. E. Smith shall accept the certificate herein authorized to be transferred together with all conditions as contained in the certificate as originally issued to E. Paggi under Decision No. 7354.
2. That 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 other purpose than the transfer herein authorized.
3. That the applicant E. J. Hartsell shall immediately cancel all tariffs and time schedules now on file with the Railroad Commission, such cancellation to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.
4. That the applicant F. E. Smith shall immediately file tariff of rates and time schedules, in duplicate, in his own name, or adopt as his own the tariffs and time schedules heretofore filed with the Railroad Commission by applicant E. J. Hartsell, all rates and time schedules to be identical with those filed by applicant E. J. Hartsell.
5. That the rights and privileges herein authorized to be transferred 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.
6. That no vehicle may be operated by the applicant F. E. 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 27<sup>th</sup> day  
of March, 1922.

H. B. Bouding  
Ernest W. Hartman  
J. F. Remond  
Commissioners