

Decision No. 26862

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of U. G. SMITH and I. S. NEWLAN, co-partners, doing business under the firm name and style of SMITH AUTOMOBILE COMPANY, for them to sell, and WESTERN TRUCK LINES, LTD., a corporation, to purchase the operative rights and equipment for the automotive transportation of freight between Bishop and Mammoth, California, granted under Decision No.12468, of the Railroad Commission of the State of California, and extensions thereof between Mammoth and Crystal Craig and Tamarack Lodge, granted under Decision No.16996, and extensions thereof between Mammoth and June Lake and Silver Lake, granted under Decision No.17981.

ORIGINAL

Application No. 19339

BY THE COMMISSION -

OPINION and ORDER

U. G. Smith and I. S. Newlan, co-partners, doing business as Smith Automobile Company, have petitioned the Railroad Commission for an order approving the sale and transfer by them to Western Truck Lines, Ltd. of operating rights for an automotive service for the transportation of property between Bishop and Mammoth, June Lake and Silver Lake and certain intermediate points, and Western Truck Lines, Ltd. has 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, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof. As the purchaser is executing notes exceeding twelve (12) months in completing the purchase, the statutory fee will be required.

The consideration to be paid for the property herein proposed to be transferred is given as \$1500.00. Of this sum \$500.00 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 created by Decision No.12468, on Application No.9223; Decision No.16996, on Application No.12956, and Decision No.17981, on Application No.13516.

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.

Western Truck Lines, Ltd. 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 U. G. Smith and I.S. Newlan, co-partners, shall immediately unite with applicant Western Truck Lines, Ltd. in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Smith and Newlan on the one hand withdrawing, and applicant Western Truck Lines, Ltd. on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants U.G.Smith and I.S. Newlan shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicant Western Truck Lines, Ltd. shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicants Smith and Newlan, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the names of applicants Smith and Newlan, 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 Western Truck Lines, Ltd. unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. This order shall not become effective until there has been paid to the Railroad Commission the fee required by the Public Utilities Act and the Auto Stage and Truck Transportation Act to be paid on all evidences of indebtedness extending over a period of one year, in this instance the minimum fee of \$25.00.

Dated at San Francisco, California, this 12th day of
March, 1934.

C. C. Harvey

Leon White

W. J. Linn

M. B. Harris

COMMISSIONERS.