

Decision No. 27048

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
J. NELSON BENEDICT and EDGAR T. BROWN
to sell, and O. R. BENEDICT and
EDGAR T. BROWN to purchase an automobile
freight line operated between Los Angeles,
Huntington Park and intermediate points.)
Application
No. 19429

BY THE COMMISSION -

OPINION and ORDER

ORIGINAL

J. Nelson Benedict and Edgar T. Brown, co-partners, operating under the name Huntington Park and Los Angeles Daily Transfer, have petitioned the Railroad Commission for an order approving the sale and transfer by them to O.R. Benedict and Edgar T. Brown of an operating right for an automotige service for the transportation of property between Los Angeles and Huntington Park, Cudahy and intermediate points, and O. R. Benedict and Edgar T. Brown have 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 \$1.00, which is declared to be the value of intangibles.

The operating right herein proposed to be transferred was created by Decision No. 22122, dated February 11, 1930, on Application No. 16195.

The actual transfer of interest above set forth took place about July 1, 1930, but applicants allege that through

their error, but "not through wilful negligence or desire to disregard the law" no application was made to confirm the transaction. When the error was called to their attention, applicants promptly sought to comply with the law.

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.

O. R. Benedict and Edgar T. Brown 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 J. Nelson Benedict and Edgar T. Brown shall within twenty (20) days after the effective date of the order unite with applicants O. R. Benedict and Edgar T. Brown in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants J. Nelson Benedict and Edgar T. Brown on the one hand withdrawing, and applicants O. R. Benedict and Edgar T. Brown on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants J. Nelson Benedict and Edgar T. Brown shall within twenty (20) days after the effective date of the order withdraw time schedules filed in their names with the Railroad Commission and applicants O. R. Benedict and Edgar T. Brown shall within twenty (20) days after the effective date of the order file, in duplicate, in their own names time schedules covering service heretofore given by applicants J. Nelson Benedict and Edgar T. Brown, which time schedules shall be identical

with the time schedules now on file with the Railroad Commission in the names of applicants J. Nelson Benedict and Edgar T. Brown, 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 O. R. Benedict and Edgar T. Brown 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.

6. The authority herein granted to sell and transfer the right and/or property shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

Dated at San Francisco, California, this 14th day of May, 1934.

O. L. Leary
Leon Whitely
W. B. Harris
W. B. Harris
W. B. Harris
COMMISSIONERS.