

Decision No. 27197

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 RAY A. ANDERSON to sell, and V. P. )  
 HUNT COMPANY, a copartnership consisting )  
 of V.P.Hunt, Marian B. Hunt and R.B. )  
 Sprich, to purchase an automobile freight )  
 line for the transportation of packed and )  
 unpacked citrus and deciduous fruits and )  
 canned goods from Pomona, Claremont and )  
 Cucamonga to Los Angeles and Los Angeles )  
 Harbor and for a return of sugar and packing )  
 house supplies, including cans, shock, metal )  
 strapping, wraps, paste and inks from )  
 Los Angeles and Los Angeles Harbor and )  
 Vernon. )

) Application  
 ) No.19416

**ORIGINAL**

Rex W. Boston, for applicants.

R. E. Wedekind, for Southern Pacific Company,  
Pacific Electric Railway Company, Pacific  
Motor Transport Company and Pacific Motor  
Trucking Company, interested parties.

Elmer Ahl, for Keystone Express System,  
interested party.

E. T. Lucey, for The Atchison, Topeka & Santa  
Fe Railway Company, interested party.

BY THE COMMISSION -

O P I N I O N

Ray A. Anderson, an individual, has petitioned the Railroad Commission for an order approving the sale and transfer by him to V.P. Hunt Company, a copartnership consisting of V.P. Hunt, Marian B. Hunt and R. B. Sprich, of an operating right for an automotive service for the transportation of certain designated commodities from Pomona, Claremont, Ontario and Cucamonga to Los Angeles and Los Angeles harbor and a return movement of certain other designated commodities from Los Angeles and Los Angeles harbor and Vernon, without intermediates and subject to certain restrictions, and V.P. Hunt Company 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.

A public hearing on this application was conducted by Examiner Gorman at Los Angeles on May 29, 1934, at which time the matter was duly submitted.

Ray A. Anderson is the owner of a certificate of public convenience and necessity, granted by this Commission's Decision No.17754, dated December 13, 1926, on Application No.11598, authorizing the operation of an automotive truck service for the transportation of packed and unpacked citrus and deciduous fruits and canned goods from Pomona, Claremont, Ontario and Cucamonga to Los Angeles and Los Angeles harbor, and for a return movement of sugar and packinghouse supplies, including cans, shook, metal strapping, wraps, paste and inks, from Los Angeles and Los Angeles harbor and Vernon, without intermediates; provided that all shipments shall originate at or be destined to packinghouses in Pomona, Claremont, Ontario or Cucamonga, over and along the following routes:

From Pomona and Ontario via Valley Boulevard, Alhambra Road and Mission Road to Los Angeles, and between Los Angeles and Los Angeles harbor via Harbor Truck Boulevard; also from the same points to Los Angeles harbor via Valley Boulevard to Pico Road, thence to Seventh Street, Whittier, thence west to Downey-Clearwater Road and Compton Boulevard to Harbor Truck Boulevard. From Claremont via Tenth Street and San Antonio Boulevard, thence via Valley Boulevard over either of the routes above described to Los Angeles or Los Angeles harbor. From Cucamonga via Guasti Road and Colton-Bloomington Road to Ontario, thence via Valley Boulevard, using the same routes from the east to Los Angeles or Los Angeles harbor, thence by either Santa Fe Avenue or Harbor Truck Boulevard to Vernon, and returning eastwardly over either of said routes.

The consideration to be paid for the property herein proposed to be transferred is given as \$1000.00, which sum is declared to be the value of the operative rights only.

The record shows that Vernon P. Hunt has been in the transportation business since 1919, specializing in the hauling of oranges between the Relands and Pomona districts and the Los Angeles harbor and that the V.P. Hunt Company, a copartnership doing contract hauling, was established about two and a half years ago. Vernon P. Hunt, as an individual, has been involved in bankruptcy, however, said bankruptcy proceeding having been discharged approximately a year and a half ago. Applicant V.P. Hunt Company has submitted letters from several large citrus grower associations, distributors and a bank, attesting to the fitness of said company to carry on the operations proposed to be transferred to it. An affidavit filed by V.P. Hunt, General Manager of V.P. Hunt Company, as of June 15, 1934, shows that said company owns an equitable interest of approximately \$29,000.00 in equipment having a value of approximately \$33,000. Said Hunt testified that he had sufficient equipment and was financially able to perform efficient and adequate service over the routes sought to be transferred.

The record also shows that V.P. Hunt Company acquired the operative rights involved herein from Ray A. Anderson on December 28, 1933, and that the instant application seeking this Commission's authority to effect such transfer was not filed until April 26, 1934. Exhibit No.1, introduced in evidence in this proceeding, is a copy of a document, dated December 28, 1933, and signed by Ray A. Anderson, purporting to be an application for assignment and transfer of the certificate of public convenience and necessity, which application was drawn by an attorney other than the attorney representing applicants herein. Subsequent to the execution of the purported agreement and application, the parties to same discovered

that it was not in proper form and they thereupon caused to be prepared and filed the instant application. It appears that applicants were of the impression that the execution of the purported agreement and application was sufficient to permit the transfer. At the time of hearing there appeared to be some doubt as to whether or not Ray A. Anderson had operated for the entire year of 1933 and whether or not he had forfeited his certificate by the abandonment of service. An affidavit, dated June 9, 1934, and signed by Ray A. Anderson, (now a resident of Oregon), avers that during the period December 13, 1926, to December 28, 1933, he had engaged in and carried on an automotige freight transportation business under the operative rights herein proposed to be transferred, without interruption, cessation or discontinuance. The books of said Ray A. Anderson were made available to the Auditor of this Commission's Finance and Accounts Department and, even though said books were maintained in a rather inefficient and loose manner, it was clearly indicated that the service was maintained until the transfer described above was effected. Analysis of the record results in the conclusion that Anderson was careless and, in some degree, neglectful of his obligations as a common carrier. This is not a disciplinary proceeding and what was produced in evidence would not justify revocation or suspension of the right involved.

No one appeared at the hearing in protest to the granting of this application.

After carefully considering all of the evidence in this proceeding, we are of the opinion that the application is not against public interest and should, therefore, be granted.

V. P. Hunt Company, a copartnership consisting of V.P.Hunt, Marion B. Hunt and R.B.Sprich, 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. Applicant V. P. Hunt Company shall, within twenty (20) days after the effective date of the order, unite with applicant Ray A. Anderson in common supplemt, in triplicate, to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Ray A. Anderson on the one hand withdrawing, and applicant V.P.Hunt Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.
  3. Applicant Ray A. Anderson shall, within twenty (20) days after the effective date of the order, withdraw time schedules filed in his name with the Railroad Commission, and applicant V.P.Hunt Company shall, within twenty (20) days after the effective date of the order file, in duplicate, in its own name, time schedules covering service heretofore given by applicant Ray A. Anderson, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Ray A. Anderson, or time schedules satisfactory to the Railroad Commission.
  4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, or 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 V.P.Hunt Company 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. The authority 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. The effective date of this order shall be the date hereof.
- Dated at San Francisco, California, this 10th day of July, 1934.

Leon S. [Signature]  
W. B. Harris