

Decision No. 27633

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of O. R. BENEDICT and E. T. BROWN, co-partners, doing business under the fictitious firm name of HUNTINGTON PARK-LOS ANGELES DAILY TRANSFER, to sell to G. W. JUDD and F. C. JUDD, a co-partnership, doing business under the firm name of JUDD BROTHERS, and said G. W. JUDD and F. C. JUDD to purchase that certain certificate of public convenience and necessity for the transportation by motor trucks of railroad traffic between the station of the Atchison, Topeka and Santa Fe Railway Company at 56th Street and Malabar Avenue, in the County of Los Angeles, adjacent to the City of Los Angeles, and the towns of Huntington Park, Vernon, Maywood and parts of the towns of South Gate and Bell and certain portions of Los Angeles County adjacent thereto, under contract with the said railway company, granted to applicants O. R. BENEDICT and E. T. BROWN by Decision No. 26267, rendered on Application No. 18802.

ORIGINAL

Application No. 19776.

BY THE COMMISSION:

OPINION AND ORDER

O. R. Benedict and E. T. Brown, co-partners doing business under the fictitious name and style of Huntington Park-Los Angeles Daily Transfer have petitioned the Railroad Commission for an order approving the sale and transfer by them to G. W. and F. C. Judd a co-partnership doing business under the fictitious name and style of Judd Brothers of an operating right for an automotive service for the transportation of railroad traffic

between the 56th Street and Malabar Avenue station of the Atchison, Topeka and Santa Fe Railway in Los Angeles County and a certain area including a portion of Huntington Park, Vernon, Maywood, South Gate, Bell and certain unincorporated territories all within the pickup and delivery zone of the Atchison, Topeka and Santa Fe Railway and under contract only therewith.

G. W. and F. C. Judd, co-partners, doing business under the fictitious name and style of Judd Brothers have 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.

The consideration to be paid for the property herein proposed to be transferred is given as \$25.00 which is declared to be the value of the intangibles. No equipment is to be transferred.

The operating right herein proposed to be transferred was created by Decisions Nos. 26267 dated August 21, 1933 and 26343 dated September 18, 1933 on Application No. 18802.

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.

Judd Brothers 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 O. R. Benedict and E. T. Brown shall within twenty (20) days after the effective date of the order unite with applicants G. W. and F. C. Judd in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants O. R. Benedict and E. T. Brown on the one hand withdrawing, and applicants G. W. and F. C. Judd on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants O. R. Benedict and E. T. Brown shall within twenty (20) days after the effective date of the order withdraw time schedules filed in their name with the Railroad Commission and applicants G. W. and F. C. Judd 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 O. R. Benedict and E. T. Brown, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants O. R. Benedict and E. 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 G. W. and F. C. Judd 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 granted to sell and transfer the rights 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 21st day
of January, 1935.

Leon Whitney

M. B. Lewis

Paul R. Dolan
COMMISSIONERS.