

Decision No. 27337

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of }  
OPPENHEIMER TRUCK LINE to sell, and }  
CHARLES A. STEVENOT to purchase an } Application No. 19934  
automotive freight line between San }  
Diego and Pine Valley, California. }

BY THE COMMISSION -

ORIGINAL

OPINION

Rush Oppenheimer, operating under the name and style of Oppenheimer Truck Line, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Charles A. Stevenot of operating rights for an automotive service for the transportation of property between San Diego and Pine Valley and intermediate points, and Charles A. Stevenot 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.

The consideration to be paid for the property herein proposed to be transferred is given as \$2300.00. Of this sum \$1000.00 is declared to be the value of equipment and \$1300.00 is declared to be the value of intangibles.

The operating rights herein proposed to be transferred were created under prior right, and Decisions Nos. 12647, dated September 21, 1923, and 14570, dated February 17, 1925, on Applications Nos. 9383 and 10625, respectively.

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.

Charles A. Stevenot 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.

#### O R D E R

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 Rush Oppenheimer shall within twenty (20) days after the effective date of the order unite with applicant Charles A. Stevenot in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Rush Oppenheimer on the one hand withdrawing, and applicant Charles A. Stevenot on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Rush Oppenheimer 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 Charles A. Stevenot shall within twenty (20) days after the effective date of the order file, in duplicate, in his own name time schedules covering service heretofore given by applicant Rush Oppenheimer, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Rush Oppenheimer, 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 Charles A. Stevenot 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.

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 16th day of May, 1935.

Leon C. Whaley

M. J. Cunn

M. B. Harris

M. J. Cunn

STANLEY R. HILL  
COMMISSIONERS.