

Decision No. 28128

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
C. E. DENIO to sell, and of FRANK CAUDANA
to buy certificate of public convenience
and necessity to operate automobile truck
line between Bakersfield and Wasco and
Shafter.)
Application
No. 20054

BY THE COMMISSION -

O P I N I O N

C. E. Denio, operating under the fictitious name of Bakersfield-Shafter-Wasco Freight Line, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Frank Caudana of an operating right for an automotive service for the transportation of property between Bakersfield and Wasco and intermediate points, via Roseville, Rio Bravo and Shafter, and Frank Caudana 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.

The consideration to be paid for the property herein proposed to be transferred is given as \$1100.00. Of this sum \$250.00 is declared to be the value of equipment and \$850.00 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was created by Decision No.22755, dated August 6, 1930, on Application No.16720.

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.

Frank Caudana 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.

ORDER

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 C. H. Denio shall within twenty (20) days after the effective date of the order unite with applicant Frank Caudana in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant C. H. Denio on the one hand withdrawing, and applicant Frank Caudana on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant C. H. Denio 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 Frank Caudana 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 C. H. Denio, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant C. H. Denio, 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 Frank Caudana 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 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 18th day of

July, 1935.

Leon White

M. B. Harris

M. B. Harris

Stuart R. Duhon
COMMISSIONERS.