

Decision No. 28449

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R.R. COM. CALIF.
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BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of R. T. HOWARD, doing business under the fictitious firm name and style of OCEANSIDE TRUCK AND TRANSFER COMPANY, to sell, and SANTA FE TRANSPORTATION COMPANY, a corporation, to purchase an automobile freight line operating between Oceanside, Vista, San Marcos, Escondido, and between Oceanside and Fallbrook, all in the State of California.

Application No. 20305.

BY THE COMMISSION:

O P I N I O N

Applicant R. T. Howard has petitioned the Railroad Commission for an order approving the sale and transfer by him to Santa Fe Transportation Company, a corporation, of an operating right for the automotive transportation as a highway common carrier of property between Oceanside, Escondido and Fallbrook and Santa Fe Transportation Company has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder.

The consideration to be paid for the right herein proposed to be transferred is given as \$350, all of which is alleged to be the value of the intangibles.

The operating right herein proposed to be transferred was created by Decision No. 25352 dated November 14, 1932 and Decision No. 25382 dated November 21, 1932, both in Application No. 17280.

This is a matter in which a public hearing is not necessary and the application will be granted.

Applicant Santa Fe Transportation Company 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 for any purpose other than the transfer herein authorized.
2. Applicant Howard shall within twenty (20) days after the effective date of the order herein unite with applicant Santa Fe Transportation Company in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Howard withdrawing, and applicant Santa Fe Transportation Company accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Howard shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in his name with the Railroad Commission and applicant Santa Fe Transportation Company shall within twenty (20) days after the effective date of the order herein file, in duplicate, in its own name time schedules covering service heretofore given by applicant Howard, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Howard 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 obtained.

5. No vehicle may be operated by applicant Santa Fe Transportation 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 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 19th
day of December, 1935.

Leon A. White

M. A. Cunn

W. H. ...

James R. Debi
COMMISSIONERS.