

Decision No. 28847

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of MARTIN H. RICHARDS, doing
business under the fictitious name
of Richards Express Company, to sell
and BOULEVARD TRANSPORTATION COMPANY,
a corporation, to purchase an express
and forwarding business operating between
points in the State of California.

Application
No. 20569

BY THE COMMISSION:

O P I N I O N

Martin H. Richards, doing business as Richards Express Company has petitioned the Railroad Commission for an order approving the sale and transfer by him to Boulevard Transportation Company, a California corporation of a right to engage in the operating of an express and freight forwarding business and Boulevard Transportation Company has petitioned for authority to purchase and acquire said 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 \$500. All of which is alleged to be the value of intangibles.

The right herein proposed to be transferred is alleged by applicants to be a prescriptive right as evidenced by tariffs now on file with the Railroad Commission.

Boulevard 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. That the order herein authorizing the transfer sought shall in no way be construed to be determinative of the operative rights herein involved.
2. 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.
3. Applicant Martin H. Richards shall within twenty (20) days after the effective date of the order herein unite with applicant Boulevard Transportation Company in common supplement to the tariffs on file with the Commission, covering service given under the operative right herein authorized to be transferred, applicant Martin H. Richards withdrawing and applicant Boulevard Transportation Company accepting and establishing such tariffs and all effective supplements thereto.
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. The authority herein 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 25th day of May, 1936.

M. B. Lewis
Leon O. Whitman
M. A. Lewis
Walter Lewis
Commissioners