

LEM

Decision No. 29256

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
ROBERT G. ANDERSON and JOHN V. ANDERSON,
co-partners operating and doing busi-
ness under the fictitious firm name and
style of NORTHWEST FORWARDERS to sell
to NORTHWEST FORWARDERS, Inc., a cor-
poration, and NORTHWEST FORWARDERS, INC.,
a corporation, to purchase from said
ROBERT G. ANDERSON and JOHN V. ANDERSON,
co-partners doing business, as afore-
said, the operation of transporting
property between San Francisco, Los
Angeles, San Diego and other points in
Southern California, and to issue Capi-
tal Stock of said NORTHWEST FORWARDERS,
INC., a corporation, in payment for
such purchase.

Application No. 20815

ORIGINAL

Douglas Brookman and Maurice R. Carey,
for applicants.

BY THE COMMISSION:

O P I N I O N

In this application, as amended, the Railroad Commission is asked to make its order authorizing Robert G. Anderson and John V. Anderson, co-partners doing business under the firm name and style of Northwest Forwarders, to transfer operating right and properties to Northwest Forwarders, Inc., a corporation, and authorizing Northwest Forwarders, Inc. to issue \$1,800. of stock. (1)

Applicants Robert G. Anderson and John V. Anderson have on file with the Commission their Local Express Tariff No. 1 and a supplement thereto, both effective on July 1, 1933. In general it is alleged that such applicants are engaged in the movement of property between San Francisco, Los Angeles, San Diego and other

(1) In the application as originally filed Northwest Forwarders, Inc. asked permission to issue \$10,000. par value of stock, which amount, however, at the hearing, by verbal amendment, was reduced to \$1800.

points in Southern California, and between interstate points. Such operating right as they may have is claimed to have been developed by one John A. Brown by reason of operations conducted prior to the effective date of Section 50 (f) of the Public Utilities Act and to have been acquired by them, by transfer, under authority granted by Decision No. 27721, dated February 4, 1936. In Decision No. 27721 the Commission said-

"Applicants are furthermore placed on notice that the authority herein granted is not to be construed as a determination by the Commission of the extent of the operating right here involved".

It appears that the present operators have concluded to incorporate their business and to that end have organized Northwest Forwarders, Inc. on or about August 3, 1936 with an authorized capital stock of \$10,000., divided into 10,000 shares of the par value of \$1.00 each, and have made arrangements to transfer their business and properties to it. The amount of stock now proposed to be issued by the corporation in acquiring the business, that is, \$1800. par value, is approximately equivalent to the reported cost of two trucks, office furniture and fixtures and incorporation expenses, and an allowance of about \$1,000. for working capital.

No one appeared at the hearing in opposition to the granting of the application. A written protest of the Southern Pacific Company was received prior to the hearing. The Southern Pacific Company asks the Commission to determine the extent of the operative right here in question, before it authorizes the transfer of the same.

The determination of the extent of the operating right, in our opinion, is not an issue in this proceeding. Such order as the Commission may make at this time will permit the transfer of only such right as now is possessed by the present operators and should

not be construed as passing on or validating any claims such operators may have, or as fixing the nature and extent of such right. The transfer of the properties and business to the corporation, as here proposed, in no way will prejudice the right of Southern Pacific Company, or any one else, to question in the future the operations of Northwest Forwarders, Inc. or the right of the Commission to institute a proceeding on its own motion to determine the extent of such operating right.

Applicants are further placed on notice that an operative right or 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, which monopoly feature, however, may be changed or destroyed at any time by the state which is not in any respect limited in the number of rights which may be given.

O R D E R

Robert G. Anderson and John V. Anderson and Northwest Forwarders, Inc. having applied to the Railroad Commission for an order authorizing the transfer of properties and the issue of \$1,800. of stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of such stock is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED that Robert G. Anderson and John V. Anderson, co-partners doing business under the firm name and style of Northwest Forwarders, be, and they hereby are authorized to transfer their operating right, business and properties, such properties to include at least \$1,000. in cash on or before December 31, 1936 to Northwest Forwarders, Inc.

IT IS HEREBY FURTHER ORDERED that Northwest Forwarders, Inc. be, and it hereby is, authorized to issue on or before March 31, 1937, not exceeding \$1,800. of its common capital stock to pay for such right, business and properties, to pay incorporation expenses and to provide working capital.

The authority herein granted is subject to the following conditions:-

1. The consideration to be paid for the properties 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 properties for rate fixing or any purpose other than the transfer herein authorized.
2. The order herein authorizing the transfer of the said operating right shall in no way be construed to be determinative of the extent or value of said operative right.
3. Robert G. Anderson and John V. Anderson, and Northwest Forwarders, Inc. shall join in common supplement, to be filed in triplicate, to the tariffs on file with the Commission in the name of the transferors, said Robert G. Anderson and John V. Anderson on the one hand withdrawing and Northwest Forwarders, Inc. on the other hand accepting and establishing as its own such

tariffs and all effective supplements thereto.

4. The right and privilege herein authorized to be transferred may not hereafter be sold, leased, transferred nor assigned, nor service thereunder discontinued, increased or changed by Northwest Forwarders, Inc. unless the written consent of the Railroad Commission has first been secured.
5. The authority herein granted to sell and transfer an operative right and properties and to issue stock shall lapse and become 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 terms shall be extended by further order of the Commission.
6. Northwest Forwarders, Inc. shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file a report, or reports, such as are required by the Railroad Commission's General Order No. 24-A, which order insofar as applicable, is made a part of this order.
7. The authority herein granted will become effective upon the date hereof.

DATED at San Francisco, California, this 9th day of November, 1936.

M B Lewis
Leon Whittell
J. J. Pan
Walter Harris
Frank Reilly
Commissioners.