

Decision No. 29622

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 HARRY E. FLEISCHER, to sell, and
 R. T. CHRISTMAS, to purchase, and
 automobile freight line operated be-
 tween Los Angeles, California, and
 Pasadena, California, and intermediate
 points.

Application No. 21077

BY THE COMMISSION:

ORIGINAL

O P I N I O N

Harry E. Fleischer, doing business as Crown City and Los Angeles Express Company, has petitioned the Railroad Commission for an order approving the sale and transfer by him to R. T. Christmas of an operating right for the automotive transportation as a highway common carrier of property between Los Angeles, South Pasadena, Pasadena, Lamanda Park and Oak Knoll; and R. T. Christmas 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 \$4500. Of this sum, \$1,000 is alleged by the applicant to be the value of the equipment and \$3500 is alleged to be the value of the intangibles. The sum of \$4500 is to be paid in installments as follows: The sum of \$500 upon the execution of the agreement of sale, the sum of \$75 or more beginning the first day of March 1937, and a like sum of \$75 or more on the first day of each and every calendar month

thereafter until the entire balance of the purchase price shall have been fully paid.

The right herein proposed to be transferred is a prescriptive operating right acquired by applicant Fleischer under the authority granted by Decision No. 18766, dated September 3, 1927, in Application No. 14029.

This appears to be a matter in which a public hearing is not necessary. The application will be granted.

R. T. Christmas 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 H. E. Fleischer shall within twenty (20) days after the effective date of the order herein unite with applicant R. T. Christmas in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Fleischer withdrawing and applicant Christmas accepting and establishing such tariffs and all effective supplements thereto as his own.
3. Applicant Fleischer 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 Christmas shall within twenty (20) days after the effective date of the order herein file, in duplicate, in his own name time schedules covering service heretofore given by applicant Fleischer which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Fleischer or time schedules satisfactory to the Railroad Commission.

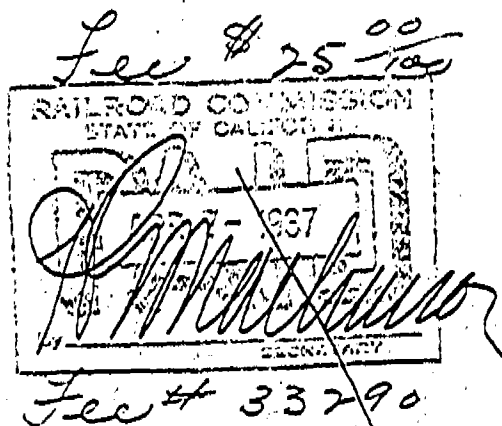
4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been obtained.

5. No vehicle may be operated by applicant Christmas 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. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

7. The authority hereinabove granted will become effective when R. T. Christmas has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is twenty-five dollars (\$25). Such authority 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 time shall be extended by further order of the Commission.

Dated at San Francisco, California, this 22nd day of March, 1937.



Matthew Mas...
Leon ...
Frank ...
Ray ...
COMMISSIONERS.