

Decision No. 30241

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SOUTHERN CALIFORNIA FREIGHT LINES to)
lease to C. T. ROBERTS an automobile) Application No. 21324
freight line operated between Hemet)
and Idylwild, California, and inter-)
mediate points.)

E. J. BISCHOFF, for Southern California
Freight Lines.

C. T. ROBERTS, in propria persona.

BY THE COMMISSION:

C O P I E S

By this application Southern California Freight Lines, a corporation, seeks authority to lease to C.T. Roberts, an individual, for a period of three years that portion of its operating right as a highway common carrier of property between Hemet and Idylwild and intermediate points via Keen Camp; and C. T. Roberts has petitioned for authority to enter into said lease and to hereafter operate thereunder in accordance with an agreement, a copy of which, marked Exhibit "A" is attached to the application herein and made a part thereof.

A public hearing in this matter was conducted by Examiner McCaffrey in Los Angeles on October 5, 1937, at which time the matter was submitted and is now ready for decision.

The operating right involved herein was originally granted R. B. Cregar by Decision No. 10733, dated July 22, 1922, and subsequently transferred to Motor Transit Company by Decisions Nos. 13371 and 17377, on Application No. 9780. Motor Transit Company transferred said right to Motor Service Express by Decision No. 23267, dated July 3, 1931.

In the opinion preceding its order in the aforementioned Decision No. 23867, the Commission made the following statement:

"For the purpose of clarifying the many orders issued from time to time by the Commission affecting this territory, it would seem advisable, at this time, to definitely fix the routes to be traversed under authority of the operating rights herein proposed to be transferred. Therefore, it is hereby declared that the operating rights herein proposed to be transferred authorize a service for the transportation of freight,

"Between Riverside and Idyllwild and all intermediate points, via March Field, Val Verde, Perris, Romoland, and Hemet and via Armada, Moreno, Eden, Gilman's Hot Springs, Soboba Hot Springs (the latter by diversion) and San Jacinto, Hemet and Keen Camp."

Subsequently, by Decisions Nos. 26138 and 28506, dated July 10, 1933, and January 20, 1936, Coast Truck Line which later, through change of corporate name to Southern California Freight Lines, acquired all the operating rights of Motor Service Express.

It is the purpose of applicant Southern California Freight Lines to lease to applicant C. T. Roberts that portion of the above described operating right between Hemet and Idyllwild and intermediate points via Keen Camp. Under the lease agreement C. T. Roberts, the lessee, will pay an annual rental of \$100 per year payable quarterly, in advance, for a period of three years with the further consideration for the period of the lease that lessor, Southern California Freight Lines, grants to the said lessee an option to acquire the operating right in question for the sum of \$500. Mr. Roberts further agrees to maintain the same scheduled service as that now being rendered by Southern California Freight Lines. No equipment is to be leased.

Mr. H. J. Bischoff, president of Southern California Freight Lines, testified that, in his opinion, the limited number of persons to be served at Idyllwild and Keen Camp would receive better service from an individual operator, such as C. T. Roberts, than from Southern California Freight Lines, particularly, in view of the fact that Mr. Roberts, a resident of the particular locality,

would be in closer contact and effect a closer relationship with the conditions and necessities developing in this territory and that the tonnages available had never exceeded the capacity of a 5-ton truck such as was proposed to be operated by Roberts.

Mr. Roberts testified that he has been operating in this territory as a radial highway common carrier for four years; that he possesses a Radial Highway Common Carrier's permit; that he owns a 1933 truck, fully insured as required by statute; that he is thoroughly familiar with local conditions and is willing, able and prepared to render the service as proposed.

The territory directly involved in this proceeding is what is known as "resort territory" with limited demands for service. It appears that a local resident fully conversant with and in direct contact with the needs of the district could render a more effective service and that certain operating economies available to such a local operator can be effected in the public interest.

While the "splitting of rights" and the sale, transfer, or lease of a part of a right is not generally approved by the Commission, there are occasions, such as the present one, when it appears that public convenience and necessity would be subserved by a departure from such a policy.

We are, therefore, of the opinion that this application should be granted, provided that it is strictly understood that applicant C. T. Roberts shall maintain the same service now being rendered by Southern California Freight Lines and that Southern California Freight Lines shall in no way diminish or change its present service in conjunction with the service proposed to be rendered by C. T. Roberts except upon agreement of the said parties and with approval of this Commission.

C. T. Roberts 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 leased 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 lease herein authorized.
2. Applicant Southern California Freight Lines shall within twenty (20) days after the effective date of the order herein unite with applicant C. T. Roberts in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be leased, applicant Southern California Freight Lines withdrawing and applicant C. T. Roberts accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Southern California Freight Lines shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in its name with the Railroad Commission and applicant C. T. Roberts 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 Southern California Freight Lines which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Southern California Freight Lines 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 C. T. Roberts 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 herein granted to lease 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.

7. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all the provisions of this Commission's General Order No. 91.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 18th day of
October, 1937.

William H. Hall
John A. White
Frank R. White
Robert A. White
W. H. Riley
COMMISSIONERS