

Decision No. 22500

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
FRANK E. YOUNG, doing business under)
the firm name and style of YOUNG-)
JOHNSON TRUCK COMPANY, to transfer) Application No. 23075
to FRED A. RUSSELL certificate of)
public convenience and necessity)
for the operation of motor trucks.)

BY THE COMMISSION:

O P I N I O N

Frank E. Young, doing business as Young-Johnson Truck Company, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Fred A. Russell of an operative right for the transportation of property as a highway common carrier, between Central Manufacturing District, Inc., and the city of Los Angeles and Los Angeles Harbor. Fred A. Russell has petitioned for authority to acquire said operative right and to hereafter operate thereunder. The sale and transfer is 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 shown to be \$15,000. Of this sum \$11,000 is alleged by applicants to be the value of the equipment and \$4,000 is alleged to be the value of the intangibles.

The operative right herein proposed to be transferred is that which was acquired by applicant Young under the authority of the Commission's Decision No. 22045, dated January 21, 1930, on Application No. 16196.

This is not a matter requiring a public hearing and we are of the opinion that the authority requested is in the public interest and it will be granted.

Fred A. Russell 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.

ORDER

IT IS ORDERED that Frank E. Young is hereby authorized to transfer to Fred A. Russell and Fred A. Russell is hereby authorized to acquire the operative right referred to in the foregoing opinion, in accordance with the terms of the agreement marked Exhibit "A," attached to the application herein, and to hereafter operate thereunder, subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall not have complied with all of 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.

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 Frank E. Young shall within one hundred and twenty (120) days after the effective date of the order herein, and upon not less than five (5) days' notice to the Commission and the public, unite with applicant Fred A. Russell, in common supplement to the tariffs on file with the Commission covering the service given under the operative rights herein authorized to be transferred, applicant

Frank E. Young withdrawing, and applicant Fred A. Russell accepting and establishing, such tariffs and all effective supplements thereto.

4. Applicant Frank E. Young shall within one hundred and twenty (120) days after the effective date of the order herein, and upon not less than five (5) days' notice to the Commission and the public, withdraw all time schedules filed in his name with the Railroad Commission and applicant Fred A. Russell shall within one hundred and twenty (120) days after the effective date of the order herein, and upon not less than five (5) days' notice to the Commission and the public, file in duplicate, in his own name time schedules covering service heretofore given by applicant Frank E. Young which time schedules shall be satisfactory to the Railroad Commission.

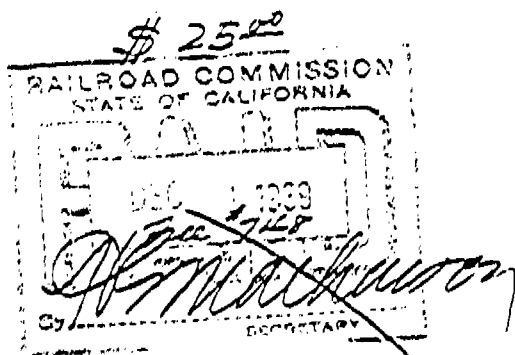
5. The rights and privileges herein authorized may not be sold, leased, transferred, nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been obtained.

6. No vehicle may be operated by applicant Fred A. Russell 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.

7. 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.

IT IS FURTHER ORDERED that the authority herein granted shall become effective when Fred A. Russell has paid the minimum fee required by section 57 of the Public Utilities Act, which minimum fee is twenty-five dollars (\$25).

Dated at San Francisco, California, this 8th day of November, 1939.



Frank E. Young
Fred A. Russell
Ray H. Rice
W. M. Johnson
Justus S. Coe
COMMISSIONERS.