

Decision No. 23380

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
REAL TRANSPORTATION CO., INC., to sell
and LOUIS M. GOODMAN, d/b/a GOODMAN
DELIVERY SERVICE, to purchase an auto-
mobile freight line operated between
Los Angeles and Cudahy Ranch, California,
and intermediate points.

Application No. 23380

BY THE COMMISSION:

O P I N I O N

Real Transportation Co., Inc., a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to Louis M. Goodman, doing business as Goodman Delivery Service, of a highway common carrier operative right for the transportation of property between Los Angeles and certain nearby points. Louis M. Goodman has petitioned for authority to purchase and acquire said operative right and hereafter to operate thereunder. The sale and transfer is to be made in accordance with an oral agreement heretofore entered into.

From the application it is indicated that the consideration to be paid for the property herein proposed to be transferred is \$4,000, all of which represents the value of the intangibles. Attached to the application is a copy of an option given by Real Transportation Co., Inc. to Louis M. Goodman to purchase the operative right involved in this proceeding. Under the terms of the option applicant Goodman is required to pay to applicant Real Transportation Co., Inc. the sum of \$1,500 within ten days of the approval of the transfer of the operative right by the Commission. The remaining \$2,500 is to be paid in ten equal monthly payments.

The operative right herein proposed to be transferred is that which was acquired by applicant Real Transportation Co., Inc. under the authority of the Commission's Decision No. 30569, dated January 31, 1938, on Application No. 21686.

This does not appear to be a matter in which a public hearing is necessary and the application will be granted.

Louis M. Goodman 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 ORDERED that Real Transportation Co., Inc., a corporation, is hereby authorized to transfer to Louis M. Goodman, and Louis M. Goodman is hereby authorized to acquire the operative right referred to in the foregoing opinion, in accordance with the terms of the agreement entered into by and between applicants, and hereafter to 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 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 Real Transportation Co., Inc. shall within thirty (30) 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 Louis M. Goodman 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 Real Transportation Co., Inc. withdrawing, and applicant Louis M. Goodman accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant Real Transportation Co., Inc. shall within thirty (30) 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 its name with the Railroad Commission and applicant Louis M. Goodman shall within thirty (30) 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 triplicate in his own name, time schedules covering service heretofore given by applicant Real Transportation Co., Inc., 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 Louis M. Goodman 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 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 9th day
of April, 1940.

Ray L. Beech
Frank D. ...
Robert ...
H. ...
Justus J. ...
COMMISSIONERS