

Decision No. 23532

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of G. W. JUDD)
and F. C. JUDD, a copartnership, doing business)
under the firm name of JUDD BROTHERS, to sell)
and G. W. JUDD, doing business as JUDD BROTHERS,)
to purchase that certain certificate of public)
convenience and necessity for the transportation)
by motor trucks of railroad traffic between the)
station of The Atchison, Topeka and Santa Fe)
Railway Company at 56th Street and Malabar)
Avenue, in the County of Los Angeles, adjacent)
to City of Los Angeles, and the towns of Hunt-)
ington Park, Vernon, Maywood, and parts of the)
towns of South Gate and Bell, and certain)
portions of Los Angeles County adjacent thereto,)
under contract with the said Railway Company,)
granted to applicants, G. W. Judd and F. C. Judd,)
doing business as Judd Brothers, by Decision No.)
27693, rendered on Application No. 19776.)

Application
No. 23532

BY THE COMMISSION:

O P I N I O N

G. W. Judd and F. C. Judd, doing business as Judd Brothers, have petitioned the Railroad Commission for an order authorizing the sale and transfer by them to G. W. Judd of an operative right for the automotive transportation of property as a highway common carrier, between Los Angeles, Huntington Park, Vernon, Maywood, South Gate, and Bell, as more particularly set forth in the Commission's decision creating said operative right. G. W. Judd 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 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 \$2,000. Of this sum \$1,950

represents the value of the equipment and the remainder is the value of the intangibles.

The operative right herein proposed to be transferred is that which was acquired by applicants under the authority of the Commission's Decision No. 27693, dated January 21, 1935, on Application No. 19776.

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

G. W. Judd 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 G. W. Judd and F. C. Judd are hereby authorized to transfer to G. W. Judd, and G. W. Judd 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 hereafter to operate thereunder. The authority herein granted is subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicants 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. Applicants G. W. & F. C. Judd 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 G. W. Judd in common supplement to the tariffs on file with the Commission covering the service given under the operative rights herein authorized to be transferred, applicants G. W. & F. C. Judd withdrawing, and applicant G. W. Judd accepting and establishing such tariffs and all effective supplements thereto.

4. Applicants G. W. & F. C. Judd 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 their name with the Railroad Commission and applicant G. W. Judd 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 applicants G. W. & F. C. Judd 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 G. W. Judd 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 6th day of

August, 1940.

Ray L. Riley
Frank J. Kelly
Ralph J. [unclear]
Justus F. Cameron
COMMISSIONERS