

Decision No. 23636

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Seaboard Transportation Co., Inc., a)
corporation, to sell, and of Union)
Transfer & Storage Company, a corpora-)
tion, to purchase, an automobile freight)
line operated between Los Angeles, and)
Los Angeles Harbor.)

ORIGINAL

Application No. 23636

BY THE COMMISSION:

O P I N I O N

Seaboard Transportation Company, Inc., a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to Union Transfer & Storage Company of Los Angeles, a corporation, of an operative right for the automotive transportation of property as a highway common carrier between Los Angeles and the steamship wharves and docks located at Wilmington and San Pedro. Union Transfer & Storage Company of Los Angeles 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 as set forth in the application. The consideration to be paid for the property proposed to be transferred is given as \$1,750, all of which is stated to represent the value of the intangibles.

The operative right herein proposed to be transferred is that which was created by the Commission's Decision No. 13335, dated March 27, 1924, as modified by Decision No. 14404, dated December 27, 1924, both in Application No. 9496. Such decisions granted a certificate to D. H. Schiffman for the transportation "...of property for compensation between the city of Los Angeles proper and

steamship wharves and docks located at Los Angeles Harbor, namely, Wilmington and San Pedro." Through successive transfers, said operative right was eventually acquired by Seaboard Transportation Company, Inc., one of the applicants herein, under the authority of the Commission's Decision No. 28096, dated July 8, 1935, on Application No. 19998.

This does not appear to be a matter in which a public hearing is necessary and the application will be granted. However, the authority herein shall not be construed as consolidating such right with the presently owned operative rights of applicant Union Transfer & Storage Company of Los Angeles.

Union Transfer & Storage Company of Los Angeles 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 Seaboard Transportation Company, Inc., a corporation, is hereby authorized to transfer to Union Transfer & Storage Company of Los Angeles, and Union Transfer & Storage Company of Los Angeles is hereby authorized to acquire the operative right referred to in the foregoing opinion in accordance with the terms of the agreement as set forth in the application 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 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 Seaboard Transportation Company, 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 Union Transfer & Storage Company of Los Angeles 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 Seaboard Transportation Company, Inc. withdrawing, and applicant Union Transfer & Storage Company of Los Angeles accepting and establishing such tariffs and all effective supplements thereto.
4. Applicant Seaboard Transportation Company, 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 Union Transfer & Storage Company of Los Angeles 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 its own name, time schedules covering service heretofore given by applicant Seaboard Transportation Company, 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 Union Transfer & Storage Company of Los Angeles unless such vehicle is owned by said applicant or is leased by it 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 3rd day of September, 1940.

Ray L. Riley
Francis R. Smith
Ralph A. [unclear]
[unclear]
Justin J. Casner
COMMISSIONERS