

Decision No. 38419

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CLYDE E. RICHARDSON and JOHN AZVEDO,)
JR., doing business as SWARTOUT VALLEY)
TRANSFER, to sell and JOHN AZVEDO, JR.)
to purchase an automobile freight line)
operated between San Bernardino and)
Swartout, California.)

ORIGINAL

Application No. 25423

BY THE COMMISSION:

O P I N I O N

The application herein requests authorization for the transfer of a highway common carrier operative right and certain equipment, including two Chevrolet trucks, from Clyde E. Richardson and John Azvedo, Jr. to John Azvedo, Jr.

The right involved was acquired by transferors under authority of the Commission's Decision No. 29926, in Application No. 21301, and authorized service between San Bernardino and Swartout.

The total consideration involved is a little over \$1200. The applicants assert that \$200 of this sum represents the value of the operative right and the remainder the value of the equipment. Such may be the understanding between the parties, but it should be clearly understood that the authorization hereinafter granted is not an approval of the purchase price in any respect, nor a finding of value for the purpose of rate fixing, issuance of securities, accounting, or for any other purpose. No examination has been made by this Commission, nor by its authorized representatives, of the physical assets involved in this transfer as to their existence, value or ownership.

John Azvedo, Jr. is placed upon notice that "operative rights" as such do not constitute a class of property which may be

capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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.

It appears that this is a matter in which a public hearing is not necessary, and the application should be granted.

O R D E R

Good cause appearing,

IT IS ORDERED as follows:

(1) Clyde E. Richardson and John Azvedo, Jr. are authorized to transfer and John A vedo, Jr. is authorized to acquire, that certain highway common carrier operative right acquired by transferors under authority of the Commission's Decision No. 29926, in Application No. 21301, together with the equipment specified in Exhibit "A" to the application herein.

(2) That the authority herein granted is subject to the provisions of section 52(b) of the Public Utilities Act, and further to the condition that John Azvedo, Jr., his successors and assigns, shall never claim before this Commission or any court or other public body, a value for said operating rights, or claim as the cost thereof an amount in excess of that paid for said rights by those to whom said rights were originally granted.

(3) That applicants herein shall comply with the rules of the Commission's General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission

within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission.

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

Dated at San Francisco, California, this 8th day of June, 1943.

Francis R. Havener

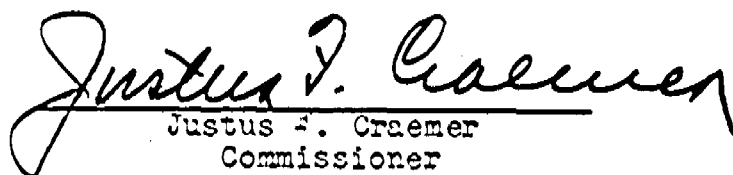
Richard L. Baker

Thomas W. Clark

COMMISSIONERS

By Commissioner Craemer

I concur in the result only, for the
reasons briefly expressed in my concurring opinion
rendered this day on Application No. 25532.


Justus F. Craemer
Commissioner