

Decision No. 36422

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
CARRIE HAPPE to sell and of V. P.)
HUNT, d/b/a V. P. HUNT TRANSPORTATION,)
to purchase the certificate of public)
convenience and necessity and certain)
automotive equipment used in connect-)
ion therewith.)

Application No. 25509

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 between Yucaipa Valley territory and Los Angeles, together with 8 trucks, 8 trailers, and certain other equipment, from Carrie Happe to V. P. Hunt. The certificate creating the operative right was issued to A. J. Happe in 1923 (Decision No. 12422, Application No. 8989), and transfer thereof to Carrie Happe was authorized in 1927 (Decision No. 17859, Application No. 13450).

The total consideration involved is \$15,000. The applicants assert that \$13,500 of this sum represents the value of the equipment. The remainder apparently represents the value of the operative right although the application is not clear in this respect. 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.

V. P. Hunt 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.

Public hearing appears unnecessary and the requested transfer will be authorized

O R D E R

Good cause appearing,

IT IS ORDERED as follows:

(1) That Carrie Happe is authorized to transfer and V. P. Hunt is authorized to acquire that certain highway common carrier operative right between Yucaipa Valley Territory and Los Angeles heretofore acquired by Carrie Happe pursuant to the authorization granted by Decision No. 17859, in Application No. 13450, together with the equipment specified in the bill of sale attached as Exhibit "A" to the present application.

(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 V. P. Hunt, his successors and assigns, shall never claim before this Commission or any court or other public body, a value for said operative 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.

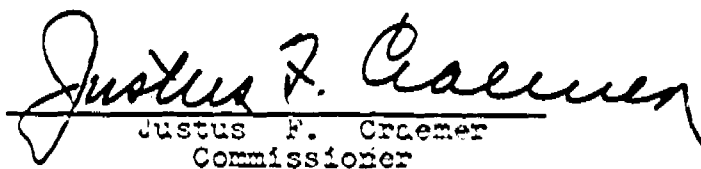
Francis D. Havenner

Richard K. Baker
Wm. C. Kelly

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