

Decision No. 36443

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
CHARLES WILBERTH CRANDALL to sell)
and transfer, and RAILWAY EXPRESS)
AGENCY, INCORPORATED, to purchase)
and acquire an automobile freight)
line operated between Whitewater)
Station (Palm Springs Station) and)
Palm Springs, California.)

Application No. 25501

BY THE COMMISSION:

O P I N I O N

The above-entitled application requests authorization for the transfer of a highway common carrier operative right between Whitewater Station and Palm Springs, together with four trucks, from Charles W. Crandall to Railway Express Agency, Incorporated, a Delaware corporation.

In 1918 the Commission issued a certificate authorizing the transportation of passengers and property between the points mentioned. (Decision No. 5347, Application No. 3688.) Crandall was authorized to acquire this right in 1924 (Decision No. 13477, Application No. 9997), and in 1940 was authorized to transfer the passenger stage right to Tanner Motor Tours, Ltd. (Decision No. 32777), retaining the highway common carrier right here involved.

The total consideration for the present transfer is \$4,500. The applicants assert that \$2,000 of this sum represents the value of the operative rights, and the balance the value of the

(1) Crandall has also filed an application for a certificate with the Interstate Commerce Commission, and the agreement between the parties also contemplates the transfer of Crandall's interest in that pending application.

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.

Railway Express Agency, Incorporated 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 authorization will be granted.

O R D E R

Good cause appearing,

IT IS ORDERED as follows:

(1) That Charles W. Crandall may sell and transfer to Railway Express Agency, Incorporated, the equipment described in Exhibit "A" attached to the application herein, and the highway common carrier operative right acquired by said Crandall under the authority of the Commission's Decision No. 13477. Railway Express Agency, Incorporated, may purchase and acquire said equipment and operative right and hereafter operate thereunder.

(2) The authority herein granted is subject to the provisions of section 52(b) of the Public Utilities Act and further to the condition that Railway Express Agency, Incorporated, its successors or assigns, shall never claim before this Commission, or any

court or other public body, a value for said operative right, or claim as the cost thereof an amount in excess of that paid for said right by the original grantee thereof.

(3) Applicants 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 tables 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 and the public.

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

Dated at San Francisco, California, this 27th day of June, 1943.

Francis L. Havenner

Richard H. Haskins
Francis W. Deary
COMMISSIONERS