

Decision No. 37736

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
CLARENCE J. SMITH AND ABBIE M. SMITH, )	
doing business as copartners under )	Application No. 26549
the name of SMITH BROS. TRUCK CO. to )	
acquire the rights to conduct a public )	
warehouse by the Smith Bros. Truck Co.)	

**ORIGINAL**

BY THE COMMISSION:

OPINION AND ORDER

By this application Abbie M. Smith and Clarence J. Smith, copartners, seek authority to acquire a prescriptive warehouse operative right formerly held by Lisle L. Smith who, prior to his death, operated as a public utility warehouseman at Los Angeles and as a highway common carrier of property between Los Angeles and Los Angeles Harbor.

The verified application shows that Abbie M. Smith is the widow and heir of Lisle L. Smith; that she desires to convey to Clarence J. Smith, her son, one-half interest in the warehouse operative right; and that similar authority has already been obtained with respect to the highway common carrier operative right.<sup>1</sup>

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

Abbie M. Smith and Clarence J. Smith are 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

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<sup>1</sup> See Decision No. 37180 of July 11, 1944, in Application No. 25907. Through inadvertence the requested transfer of the warehouse operative right was not incorporated in Application No. 25907.

purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business. 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.


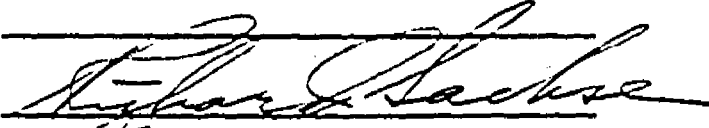
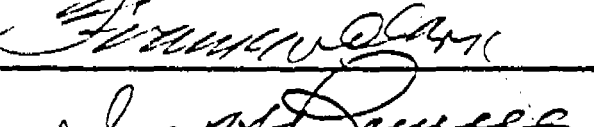
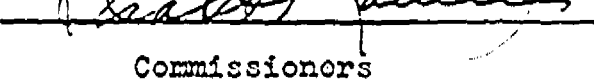
Therefore, good cause appearing,

IT IS HEREBY ORDERED that Abbie M. Smith and Clarence J. Smith, copartners, be and they are hereby authorized to acquire the warehouse operative right of Lisle L. Smith, deceased..

IT IS HEREBY FURTHER ORDERED that within sixty (60) days from the effective date of this order on not less than five (5) days' notice to the Commission and the public Abbie M. Smith and Clarence J. Smith shall file with the Commission a tariff containing rates, rules or regulations identical in volume and effect to those contained in California Warehouse Tariff Bureau Warehouse Tariff C.R.C. No. 102..

This order shall become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 20<sup>th</sup> day of March, 1945.

  
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Commissioners