

Decision No. 39040

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of)
SCOTT LAWTON, dba OROVILLE TRUCK AND)
STORAGE COMPANY, to sell, and of)
ROBERT H. HIGGINBOTHAM and RICHARD O.)
RICHARDS, a copartnership, to purchase)
equipment and operating rights as a)
highway common carrier between Oroville)
and Oroville Junction, in Butte County,)
California.)

) Application.
) No. 27309

-----)

OPINION AND ORDER

In this application, the Railroad Commission is asked to enter its order authorizing Scott Lawton to transfer operative rights, equipment, materials and supplies to Robert H. Higginbotham and Richard O. Richards.

The application shows that Scott Lawton, doing business under the firm name and style of Oroville Truck and Storage Company, is engaged in certain warehouse and public scale operations and in the conduct of a highway common carrier service under a certificate of public convenience and necessity granted him by Decision No. 32481, dated October 24, 1939, covering the transportation of property moving in the custody of Sacramento Northern Railway between Oroville and Oroville Junction. He reports the estimated cost of his properties at \$21,676 and the estimated present market value of the same at \$11,950, segregated as follows:

| <u>Description of Property</u> | <u>Estimated Cost</u> | <u>Estimated Market Value</u> |
|--|-----------------------|-------------------------------|
| Trucking equipment | \$15,960.00 | \$ 5,500.00 |
| Shop equipment and tools | 1,225.00 | 500.00 |
| Trucking materials and supplies | 1,050.00 | 700.00 |
| Building improvements, office fixtures, etc. | 1,075.00 | 800.00 |
| Warehouse materials and supplies | .250.00 | 150.00 |
| Warehouse building improvements and fixtures | 916.00 | 700.00 |
| Public and warehouse scale, etc. | 1,200.00 | 550.00 |
| Warehouse lease and accounts receivable | - - | 3,050.00 |
| Total | <u>\$21,676.00</u> | <u>\$11,950.00</u> |

For the year ending December 31, 1945, he reports receipts from his trucking operations of \$22,083.92, and from his other operations, \$5,811.95. His net profits before taxes on income are reported at \$7,728.09.

It is reported that Scott Lawton desires to dispose of the business he has been operating as Oroville Truck and Storage Company because of his advanced age and his wish to retire from active business, and that accordingly he has entered into an agreement to sell and transfer his business and properties to Robert H. Higginbotham and Richard O. Richards for the sum of \$12,000, payment to be made upon approval of this application by the Railroad Commission. A copy of the agreement of sale has been filed in this proceeding as Exhibit "A".

Robert H. Higginbotham and Richard O. Richards are hereby 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.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary and that the requests of applicants should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. Scott Lawton may transfer to Robert H. Higginbotham and Richard O. Richards, on or before August 15, 1946, the operative rights and properties referred to herein, such transfer to be made in accordance with the agreement of sale filed in this proceeding as Exhibit "A".

2. Applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and to the public.

3. The action taken herein shall not be construed to be a finding of value of the properties herein authorized to be transferred.

4. The authority herein granted is effective upon the date hereof.

Dated at San Francisco, California, this 5th day
of June, 1946.

Harold Anderson

Justin F. Garrison
Thomas W. ...

Walter D. ...

Harold Kule

Commissioners