

Decision No. 44627

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 MABEL E. SMITH, doing business as)
 ALLISON AUTO EXPRESS, to sell, and)
 CLYDE STOREY, doing business as) Application No. 31506
 STOREY AUTO EXPRESS, to purchase)
 highway common carrier motor truck)
 operating rights between Los Angeles,)
 California, and Long Beach, California.)

Clyde Storey, doing business as Storey Auto Express,
 applicant; William J. Knoell for Elmer Ahl, interested party;
 M. S. Smith, interested party.

O P I N I O N

By Application No. 31506, Mabel E. Smith, doing
 business as Allison Auto Express, seeks permission to sell, and
 Clyde Storey, doing business as Storey Auto Express, seeks per-
 mission to purchase the operating rights conferred by Decision
 No. 27920, dated April 29, 1935, in Application No. 19840.

A public hearing was held before Examiner Rogers in
 Los Angeles on July 24, 1950, evidence was presented, and the
 matter was submitted for decision. There was no opposition to the
 granting of the application.

By Decision No. 27920, dated April 29, 1935, Mabel
 E. Smith was authorized to transport automobile supplies and
 accessories, and cigars and tobacco, between Los Angeles and Long
 Beach, with no service to intermediate points. She thereafter
 operated pursuant to the rights given by Decision No. 27920 until
 June 30, 1949, at which time she completely ceased operations because

of excessive costs of operation and reduction of total revenue, and disposed of all of her operating equipment. Mabel E. Smith at no time requested of the Commission authority to suspend operations as a common carrier, and her tariffs are still in effect to all intents and purposes. ✓

We are of the opinion that actual operation is not a mere appurtenance to an operative right; it is an essential ingredient of the right itself. Where such operation has been discontinued, without authority or other lawful justification, the operative right should be revoked and no transfer thereof should be permitted.

There is an additional reason why the applicant^{tion} should be denied. For the year ending December 31, 1949, applicant Clyde Storey operated between Los Angeles and San Pedro at a net loss of \$730.38. He proposes to make up this loss by contemplated revenues from the Los Angeles-to-Long Beach operation if the transfer requested is authorized. However, applicant Clyde Storey had no definite future business in mind. The record is bare as to the amount of business that might be expected. From the record, it appears that the authorization of the transfer, as requested, rather than help applicant Clyde Storey to increase his net revenues, would eventually force the abandonment of a needed service now performed by him between Los Angeles and San Pedro.

The Commission has this day issued an order revoking the certificate of public convenience and necessity acquired by Mabel E. Smith through Decision No. 27920 in Application No. 19840, dated April 29, 1935, which is the certificate herein sought to be transferred, because of her unauthorized discontinuance of all operations and services thereunder. ✓

O R D E R

Application as above entitled having been filed, a public hearing having been held thereon, the matter having been submitted and the Commission being fully advised in the premises,

IT IS ORDERED:

That the application of Mabel E. Smith to transfer to Clyde Storey, and of Clyde Storey to acquire and thereafter operate all of the rights and privileges granted to Mabel E. Smith by this Commission's Decision No. 27920, dated April 29, 1935, in Application No. 19840, be, and the same hereby is, denied.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 8th day of August, 1950.

Justus J. Coe
Harold A. Hule
Permeth Potter
COMMISSIONERS