

ORIGINALDecision No. 49370

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ABBIE M. SMITH and CLARENCE J. SMITH,)
 copartners, doing business as)
 SMITH BROS. TRUCK COMPANY, to sell,)
 and ALCO TRANSPORTATION CO., a)
 corporation, to purchase a highway)
 common carrier operating right)
 between Los Angeles and Los)
 Angeles Harbor.)

Application No. 34806

O P I N I O N

By Decision No. 37180, dated July 11, 1944, on Application No. 25907, Abbie M. Smith and Clarence J. Smith acquired highway common carrier operative rights authorizing them to render service as a highway common carrier for the transportation of property between the business district of the City of Los Angeles, on the one hand, and steamship wharves located at Wilmington and San Pedro, on the other hand, with no service to intermediate points.¹

¹ The rights acquired were "grandfather rights" recognized by Decision No. 12823, dated November 14, 1923, Case No. 1871, S. F. Smith and L. L. Smith, doing business as Smith Brothers Motor Truck Co. This decision recites that Smith Brothers transported property between the business district of the City of Los Angeles and steamship wharves located at Wilmington and San Pedro. Decision No. 37180 (referred to supra) authorized Abbie M. Smith and Clarence J. Smith (sellers herein) to acquire said rights. Under sellers' present tariff filing, sellers purport to serve from Los Angeles (Southwest Motor Tariff Bureau, J. L. Beeler, Agent, Local, Joint and Proportional Freight Tariff No. 18A, Cal. P.U.C. No. 10) which includes points other than the City of Los Angeles, such as Vernon. It appears from our records that the prescriptive right involved, which resulted from operation on or before July 26, 1917, should include service only to or from the business district of Los Angeles as it then existed.

By this application, Abbie M. Smith and Clarence J. Smith seek authority to transfer to Alco Transportation Co., a California corporation, the described highway common carrier operative rights. No property other than the said operative rights is involved in this application.

The consideration to be paid by the buyer to the sellers for said operative rights is the sum of \$7,500, payable upon the approval of the proposed transfer by this Commission (Exhibit B in application). The purchaser holds radial highway common carrier, highway contract carrier, and city carrier permits issued by this Commission on January 6, 1953. It has five trucks, two tractors and four trailers with which it is presently conducting operations pursuant to said permits. In the application it values its current assets at \$13,000, and lists its current liabilities as \$2,600.

The application states that the sellers are not parties to any through routes or joint rates with any other carrier.

It appears that the proposed sale is not adverse to the public interest. The transfer will be authorized. A public hearing is not necessary.

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

Alco Transportation Co., a corporation, is 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.

ORDER

Application having been made, the Commission being fully advised in the premises,

IT IS ORDERED:

(1) That Abbie M. Smith and Clarence J. Smith, copartners, doing business as Smith Bros. Truck Company, may sell and transfer to Alco Transportation Co., a corporation, the operating rights hereinabove described, said sale and transfer to be made upon the terms and conditions set forth in the agreement dated August 21, 1953, a copy of which is attached to the application herein and marked Exhibit B.

(2) That applicants shall file in triplicate and concurrently make effective appropriate tariffs within sixty days from the effective date hereof and on not less than five days' notice to the Commission and the public.

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

Dated at San Bernardino, California, this 9th day of November, 1953.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners