

Decision No. 19519

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Frank Munoz, A. Torrescano and C.
Lagasphy, a copartnership doing
business as Ray Transfer Company,
to sell, and H.G. Ray, to purchase,
an automobile freight service
between San Diego and Tia Juana,
California, and intermediate points.

ORIGINAL
Application No. 14499

BY THE COMMISSION:

OPINION AND ORDER

Frank Munoz, A. Torrescano and C. Lagasphy, copartners, have applied to the Railroad Commission for an order approving the sale and transfer by them to H.G. Ray of an operating right for the transportation of property between San Diego and Tia Juana, California, and intermediate points, and H.G. Ray has asked for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement marked Exhibit "A", a copy of which is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is the cancellation of unpaid installments totaling \$10,000. due on the property under a contract of sale entered into by the partners and Ray on December 18, 1926. This sum is declared to be the value of certain real estate and equipment, no value being claimed for intangibles.

The operating right herein proposed to be transferred was originally established by applicant Ray through operation prior to May 1, 1917 and the proper filing of tariffs. Ray's C.R.C. No. 1 showed service between San Diego and Tia Juana, California, and the intermediate points of Chula Vista, Palm City, Nestor and San Ysidro. On December 27, 1926, with the approval of the Railroad Commission as shown by Decision No. 17807, issued

on Application No. 13398, he transferred the right to Munoz, Torrescano and Legasphy, a partnership. The effect of the order desired in the instant proceeding will be the reestablishment of Ray as the owner of the operating right.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted. H.G. Ray hereby placed upon notice that "Operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. 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.

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, subject to the following conditions:

1-The consideration to be paid for the property herein authorized to be transferred shall never be urged before this commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

2-Applicant Munoz, Torrescano and Legasphy, copartners, shall immediately unite with applicant, H.G. Ray in common supplement to the tariffs on file with the Commission, applicant, Munoz, Torrescano and Legasphy, copartners, on the one hand withdrawing, and applicant, Ray on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3-Applicant Munoz, Torrescano and Legasphy, copartners, shall immediately withdraw time schedules filed in their name with the Railroad Commission and applicant Ray shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Munoz, Torrescano and Legasphy, copartners, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of Munoz, Torrescano and Legasphy, copartners, or time schedules satisfactory to the Railroad Commission.

4-The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5-No vehicle may be operated by applicant Ray unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 22nd day of March, 1928.

C. Seaver

W. J. Lewis

W. J. Lewis
Commissioners.