

ORIGINAL

Decision No. 91402

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Ben Level Hiron to sell and of)
George Harms to purchase an automobile) Application
freight line operating between Fresno) No. 15806.
and Stratford, California.)

BY THE COMMISSION:

OPINION and ORDER

Ben Level Hiron has petitioned the Railroad Commission for an order approving the sale and transfer by him to George Harm of an operating right for an automotive service for the transportation of property between Fresno and Stratford and George Harm has petitioned 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, a copy of which, marked Exhibit "A", 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 given as \$1400. Of this sum \$1075. is declared to be the value of equipment and \$325. is declared to be the value of intangibles.

The operating right herein proposed to be transferred was granted to Mc Connell Hiron by the Railroad Commission in its Decision No. 1755L, dated October 29, 1926, and issued on application No. 12584. The right authorizes operation

***** of an automobile truck service for the transportation of freight as a common carrier between Fresno and Stratford, and from the intermediate point of Lemoore to Stratford (but excluding service from or to all other intermediate points) over and along the following route, viz; from Fresno via Elm Avenue to Hub, thence by County Highway to Lemoore, and thence by County Highway to Stratford."

By Decision No. 20567, dated December 7, 1928 and issued on Application No. 15195, the Commission approved the transfer of the right from Mc Connell Hiron to Ben Level Hiron.

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.

George Harm is 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 right 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 Ben Level Hiron shall immediately unite with applicant George Harm in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Hiron on the one hand withdrawing, and applicant Harm on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Hiron shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Harm shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Hiron which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Hiron 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 Harm 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.

6- The order herein shall not be construed as authority to link up, join or merge the right herein transferred with existing rights of applicant Harm.

Dated at San Francisco, California, this 29th day of

July, 1929.

Thos D. Louth

C. Seaver

Leon White

COMMISSIONERS.