

Decision No. 21535

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 A. L. MORGAN to sell and C.F.MORGAN
 to purchase an automobile freight line
 operated between Fresno, Fowler, Selma,
 Kingsburg and intermediate points.)
) Application No.15889
)

BY THE COMMISSION -

OPINION and ORDER**ORIGINAL**

A. L. Morgan has petitioned the Railroad Commission for an order approving the sale and transfer by him to C. F. Morgan of an operating right for an automotive service for the transportation of freight and express between Fresno and Kingsburg and intermediate points, and C. F. Morgan 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 \$10,000.00. Of this sum \$9500.00 is declared to be the value of equipment and \$500.00 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was established by A.L.Morgan through operation prior to May 1, 1917, as evidenced by C.R.C. No.1, Local Freight Tariff No.1 of Morgan's Auto Freight and Express Line, filed with this Commission March 6, 1918. This local freight tariff shows both express and freight rates between Fresno and Kingsburg and intermediate points via Fowler and Selma. The express rates, however, applied only to packages weighing under one hundred (100) pounds, and had no connection with an express or expedited service. Subsequent tariff filings show freight rates only, bearing out the conclusion that only a freight service was performed.

The operating right herein proposed to be transferred is a right

for the transportation of freight by automobile truck between Fresno and Kingsburg and intermediate points via Fowler and Selma.

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.

C. F. Morgan 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 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 A. L. Morgan shall immediately unite with applicant C.F.Morgan in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant A.L.Morgan on the one hand withdrawing, and applicant C.F.Morgan on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant A.L.Morgan shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicant C. F. Morgan shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant A.L.Morgan, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant A.L. Morgan, 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 C.F.Morgan 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 11th day of September, 1929.

Thos B. Loutch

C. F. Morgan

Leon A. Whiteley

M. J. Carr

COMMISSIONERS.