

Decision No. 21563

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 H. L. HINMAN, doing business under
 the name and style of Oakland Parcel
 Delivery to sell, and of Consolidated
 Motor Transport Company, a corporation,
 to buy operative rights to transport
 property by automobile trucks between
 San Francisco and Oakland, Alameda,
 Berkeley, Emeryville and Piedmont.

Application No. 15944

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

H. L. Hinman, doing business under the firm name and style of Oakland Parcel Delivery, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Consolidated Motor Transport Company, a corporation, of an operating right for an automotive service for the transportation of passengers and property between San Francisco and certain Eastbay points, and Consolidated Motor Transport Company, a corporation, has petitioned for authority to purchase and acquire said operating rights 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 the nominal sum of \$10.00.

The operating right herein proposed to be transferred was established by Hinman through the filing of tariffs covering operation prior to May 1, 1917. His C.R.C. No. 1 issued February 1, 1918, effective same date, shows service between San Francisco, Oakland, Berkeley, Alameda, Piedmont, Emeryville, Fruitvale and Melrose, thus establishing a right to transport property between the named points. The community of Albany, which now appears in Oakland Parcel Delivery tariffs, was added by C.R.C. No. 3, effective August 26, 1924, and Supplement No. 4 to C.R.C. No. 3, effective

October 22, 1928, shows the phrase "and intermediate points," indicating service between the points first named as well as Albany and intermediate points. C.R.C. No.3 and Supplement No.4 thereto, then, unlawfully enlarge the operating right herein proposed to be transferred. The order herein will transfer a right to transport property between San Francisco, Oakland, Berkeley, Alameda, Piedmont, Emeryville, Fruitvale and Melrose and no other points, and tariff filings to be made in compliance with this order must be made in accordance with this fact.

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.

Consolidated Motor Transport Company, a corporation, 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 H. L. Hinman shall immediately unite with applicant Consolidated Motor Transport Company in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Hinman on the one hand withdrawing, and applicant Consolidated Motor Transport Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Hinman shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicant Consolidated Motor Transport Company shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicant Hinman which time schedules shall be 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 Consolidated Motor Transport Company unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

6- No authority is herein conveyed for the linking up, joining or consolidating of the right herein transferred with any other operating rights owned by Consolidated Motor Transport Company.

Dated at San Francisco, California, this 17th day of September, 1929.

Thomas B. Lott

Chas. J. ...

Edward ...

Leon ...

M. J. ...

COMMISSIONERS.