LW Decision No. 24 QQQ BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA In the Matter of the Application of HELET TRANSFER & STORAGE, as lessor, and MOTOR SERVICE EXPRESS, as Lessee, for permission to enter into a certain Application lease of automobile truck line operating No-16141 rights between Hemet on the one hand and Los Angeles and other points, together with an option to Lessee to purchase. BY THE CONCLESION -OPINION and ORDER F. E. Kelly, Harold E. Kelly and Lyle N. Kelly, co-partners. have petitioned the Railroad Commission for an order approving the leasing by them (said lease providing for sale of the property on the termination of said lease), to Motor Service Express, a corporation, of an operating right for an automotive service for the transportation of property between Los Angeles and Hemet and between Hemet and certain other points, and Motor Service Express, a corporation, has petitioned for authority to lease and ultimately exercise an option to acquire said operating right and to hereafter operate thereunder, the lease and sale to be in accordance with an agreement, 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 given as \$5000, all of which sum is declared to be the value of intangibles. The operating right herein proposed to be transferred was granted to F. E. Kelly, H. E. Kelly and L. N. Kelly, co-partners, operating under the fictitious name and style of Hemet Transfer and Storage, by Railroad Commission Decision No.17540, dated October 29, 1926, and issued on Application No.11519. The order in said decision authorizes operation of an automotive truck service for the transportation of property as a common

carrier over the following routes: For the transportation of all commodities between Hemet on the one hand, and Los Angeles and Los Angeles Harbor points on the other hand, but not between intermediate points. For the transportation of fresh fruits (citrus and deciduous) and canned goods from packing houses and canneries at Hemet, on the one hand, to packing houses and canneries at Ontario, Pomona, Cucamonga and Riverside, respectively, on the other hand. 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, provided that in the event option to purchase is exercised by Motor Service Express, all of said purchase price shall be charged to Account No.315, "Miscellaneous Charges to Income." Motor Service Express, 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 aboye entitled application be, and the same is hereby granted, subject to the following conditions: 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. Applicants F. E., H. E. and L. N. Kelly shall immediately unite with applicant Motor Service Express, as lessee, in common supplement to the tariffs on file with the Commission covering service giver under certificate herein authorized to be leased, applicants F.E., H.E. and L. N. Kelly on the one hand withdrawing, and applicant Motor Service Express on the other hand accepting and establishing such tariffs and all effective supplements thereto. -2-Ĺ...i

3- Applicants F. E., H. E. and L. N. Kelly shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicant Motor Service Express shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicants F. E., H.E. and L. N. Kelly, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants F.E., H.E. and L.N.Kelly, 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 Motor Bervice Express 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.

Dated at San Francisco, California, this 13 day of Accemb, 1929.