

Decision No. 23076.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application)
of S. S. Torres to give and)
Victor Torres to accept an) Application
automobile freight line operated) No. 17000.
between San Luis Obispo and)
Simmler, California.)

BY THE COMMISSION:

ORIGINAL

OPINION and ORDER

Sarah S. Torres, executrix of the last will and testament of Victor M. Torres has petitioned the Railroad Commission for an order approving the transfer by her as a gift to Victor Torres of operating rights for an automotive service for the transportation of passengers and property between San Luis Obispo and Simmler, which rights are listed among the assets of said estate and Victor Torres has petitioned for authority to acquire said operating rights and to hereafter operate thereunder, the 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 hereof.

Since the death of Victor M. Torres, the auto service has been operated by Victor Torres, under the direction of Sarah S. Torres. A copy of the order of the Superior Court of the County of San Luis Obispo assigning the estate of Victor M. Torres to Sarah S. Torres is attached to the application herein and made a part thereof.

The operating rights herein proposed to be transferred were granted to Victor M. Torres by Railroad Commission Decision No. 7369 issued on Application No. 4113. Said decision authorizes Victor M. Torres to operate an automotive service for the transportation of passengers, express and freight:

***** between San Luis Obispo and Simmler; provided, however, that this authorization does not confer authority for the carriage of passengers, freight or express locally between San Luis Obispo and Santa Margarita and intermediate points; the rights conveyed by this certificate being for the carriage of passengers, freight and express between San Luis Obispo and points intermediate between Santa Margarita and Simmler;*****

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.

Victor Torres 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 assignment of the estate of Victor M. Torres to Sarah S. Torres be and the same is hereby approved, and

IT IS HEREBY FURTHER ORDERED that the above 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 Sarah S. Torres, as executrix of the last will and testament of Victor M. Torres shall immediately unite with applicant Victor Torres in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Sarah S. Torres on the one hand withdrawing, and applicant Victor Torres on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Sarah S. Torres shall immediately withdraw time schedules filed in the name of Victor M. Torres with the Railroad Commission and Applicant Victor Torres shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by Victor M. Torres which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Victor M. Torres 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 Victor Torres 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 13th day
of November 1930.

C. J. Sawyer

W. S. H. H. H.

M. J. L.

COMMISSIONERS.