

Decision No. 23236.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of R.S. FULCHER to sell, and)
OTIS E. HINES to purchase an)
undivided one-half interest in an)
automobile freight line operating)
between Alturas and Bieber, Calif.)

Application
No. 17059.

BY THE COMMISSION:

OPINION and ORDER

R.S. Fulcher and E.A. Eades, co-partners, have petitioned the Railroad Commission for an order approving the sale and transfer by them to the new co-partnership of E.A. Eades and Otis E. Hines of an operating right for an automotive service for the transportation of freight between Alturas and Bieber. E.A. Eades and Otis E. Hines, as co-partners have 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 "B", is attached to the application herein and made a part hereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$250.00 all of which is declared to be the value of intangibles.

The operating right herein proposed to be transferred was established by Decision 11707 dated February 21, 1923 in Application 8690 which granted a certificate of public convenience and necessity to George M. Kemble and C.R. Estes, copartners, for the operation

"...as a common carrier of passengers, express and freight between Alturas and Bieber serving as intermediate points Canby, Adin and Lookout, California..."

Decision 13482 dated April 23, 1924 in Application 9819 authorized George M. Kemble and C.R. Estes to transfer to L.M. Estes the certificate granted to the copartners in Decision 11707. Decision 22037 dated January 20, 1930 in Application 16149 authorized L.M. Estes to divide the above operating right as granted by Decision 11707 and to transfer to the copartnership of W.M. Sanford and F.G. Word the passenger and express operating right, Estes retaining the freight operating right. Decision 22597 of June 30, 1930 in Application 16667 authorized Estes to transfer to E.A. Eades and R.S. Fulcher the above described automotive freight transportation right which is the right herein sought to be transferred.

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.

E.A. Eades and Otis E. Hines are 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- Applicants Eades and Fulcher shall immediately unite with applicants Eades and Hines in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Eades and Fulcher on the one hand withdrawing, and applicants Eades and Hines on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Eades and Fulcher shall immediately withdraw time schedules filed in their name with the Railroad Commission and applicants Eades and Hines shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicants Eades and Fulcher which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Eades and Fulcher 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 applicants Eades and Hines unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 30th day of December 1930.

C. Deane
Emmett
Paul Louis

COMMISSIONERS.