

Decision No. 23741

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of R. E. RAMSEY, doing business under his individual name and also under the firm name and style of R. E. Ramsey Auto Truck Line, to sell to FORTIER TRANSPORTATION COMPANY, and of FORTIER TRANSPORTATION COMPANY to purchase all the right, title and interest of said R. E. Ramsey in and to an automobile freight and express line operated under the name of R. E. Ramsey Auto Truck Line, and also under his individual name, between Fresno and Fowler and intermediate points.

ORIGINAL

) Application
) No. 17365

BY THE COMMISSION -

OPINION and ORDER

R. E. Ramsey has petitioned the Railroad Commission for an order approving the sale and transfer by him to the co-partnership of Cordelia M., G. L., W.J., C.J., and C. E. Fortier, operating under the name and style of Fortier Transportation Company, of an operating right for an automotive service for the transportation of property between Fresno and Fowler, and the above described co-partnership 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 \$500.00. Of this sum \$300.00 is declared to be the value of equipment and \$200.00 is declared to be the value of intangibles.

The operating right herein proposed to be transferred is a prescriptive right for the transportation of freight between Fresno and Fowler, with no right to serve any points intermediate thereto, as evidenced by Local Freight Tariff C.R.C. No.1 of R. E. Ramsey, filed in the name of Ramsey Auto Truck, effective

January 14, 1920. Operation by Ramsey as of May 1, 1917, establishing this prescriptive right is described in his affidavit executed January 15, 1920.

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.

Cordelia M., C.L., W.J., C.J., and C.E. Fortier 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 order herein shall not be construed as in any way authorizing the joining or consolidating of the right herein authorized to be acquired with the rights now owned by the applicants Fortiers.
2. 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.
3. Applicant Ramsey shall immediately unite with applicants Fortiers in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Ramsey on the one hand withdrawing, and applicants Fortiers on the other hand accepting and establishing such tariffs and all effective supplements thereto.
4. Applicant Ramsey shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicants Fortiers shall immediately file, in duplicate, in their names time schedules covering service heretofore given by applicant Ramsey, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Ramsey, or time schedules satisfactory to the Railroad Commission.

5. 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.

6. No vehicle may be operated by applicants Fortiers 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 1st day of June,
1931.

C. Seaver
Leon Whitely
W. J. Carr
M. B. Harner
Fred G. Stewart
COMMISSIONERS.