

Decision No. 24486.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of The Fortier Transportation Co., a copartnership consisting of Cordelia M., G.L., W.J., C.J. and C.E. Fortier to sell and transfer and Fortier Brothers, a copartnership consisting of G.L. and C.E. Fortier to buy and acquire Automobile Freight and Express Lines operated between Fresno, Fowler, Selma and Kingsburg, and between Fresno and Fowler and between Fresno, Del Rey, Parlier and Reedley, California.

Application
No. 17954.

ORIGINAL

BY THE COMMISSION:

OPINION and ORDER

Cordelia M. Fortier, G.L. Fortier, W.J. Fortier, C.J. Fortier and C.E. Fortier, a copartnership, operating under the fictitious name of The Fortier Transportation Company have petitioned the Railroad Commission for an order approving the sale and transfer by the copartnership to G.L. and C.E. Fortier, a copartnership of operating rights for an automotive service for the transportation of passengers and property between Fresno and Kingsburg and Fresno and Reedley and G.L. and C.E. Fortier, copartners have 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 \$1.00. Applicants state that the transfer is a division by the family of the estate bequeathed by C.L. Fortier, deceased, and no value is declared as to operating

rights or equipment. The equipment consists of four trucks and three trailers and other property. No debt is assumed by the purchasers.

The operating rights herein proposed to be transferred originated by certificate granted to C.L. Fortier and Sons, a copartnership, by Decision No. 9492 on Application No. 6670 dated September 12, 1921 for motor truck service between Fresno and Reedley. Subsequently Fortier and Sons acquired the operating rights of J.R. Proctor between Fresno and Parlier and intermediate points by Decision No. 15609 on Application No. 11377 dated November 11, 1925. By Decision No. 23350 on Application No. 17159 dated February 2, 1931 Cordelia M. Fortier acquired the one-fifth interest of C.L. Fortier deceased. By the same decision the operating rights of Proctor were consolidated with those previously held by Fortier & Sons. By the same decision on Application No. 17160 the partnership acquired the operating rights of A.L. Morgan between Fresno and Kingsburg and intermediate points, via Fowler and Selma. By Decision No. 23741 on Application No. 17365 dated June 1, 1931, the partnership acquired the operating rights of R.H. Ramsey between Fresno and Fowler, a prescriptive right.

Applicants now seek the consolidation of the Morgan and Ramsey operations to avoid maintaining two services between Fresno and Fowler. There appears good reason to permit consolidation but such authority will require the adoption of the lowest rate between the points in refiling tariffs.

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.

G.L. 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.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the consolidation of the operating rights acquired by Decision No. 23350 and originally created by I.L. Morgan prior to May 1, 1917, for the transportation of freight and express between Fresno and Kingsburg and intermediate points via Fowler and Selma, with the operating right acquired by Decision No. 23741 and originally created by R.H. Ramsey prior to May 1, 1917, for transportation of freight between Fresno and Fowler, thus establishing one service between Fresno and Kingsburg and intermediate points, via Fowler and Selma, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted.

IT IS HEREBY FURTHER ORDERED that the application insofar as it transfers operating rights, equipment and other property, set forth in the application, be, and the same hereby is 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 Cordelia M., G.L., W.J., C.J. and C.E. Fortier shall immediately unite with applicants G.L. and C.E. Fortier in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Cordelia M., G.L., W.J., C.J. and C.E. Fortier on the one hand withdrawing, and applicants G.L. and C.E. Fortier on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Cordelia M., G.L., W.J., C.J. and C.E. Fortier shall immediately withdraw time schedules filed in their name with the Railroad Commission and applicants G.L. and C.E. Fortier shall immediately file, in duplicate, in their own name time schedules covering service heretofore given by applicants Cordelia M., G.L., W.J., C.J., and C.E. Fortier, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Cordelia M., G.L., W.J., C.J., and C.E. Fortier, 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 G.L. and C.E. Fortier 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 15th day of
February 1932.

C. J. Harvey
Leon Whitely

W. J. Lewis

W. B. Harris

Fred G. Stewart

COMMISSIONERS.