

Decision No. 25632.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
JAMES BELL and CHARLES GRIFFIN, co-  
partners doing business under the firm  
name and style of GILROY EXPRESS, to  
sell and transfer, and J. HILLS WYTHE,  
RUDOLPH E. HOERLER, and WILLIAM G. WAHL,  
copartners doing business under the firm  
name and style of VALLEY TRUCK LINE, to  
purchase an automotive freight line  
operated between San Francisco, on the  
one hand, and Coyote, Hollister, and  
intermediate points, on the other hand,  
but not locally between San Francisco  
and Coyote and intermediate points.

**ORIGINAL**

Application  
No. 18689.

BY THE COMMISSION:

OPINION and ORDER

James Bell and Charles Griffin, copartners, operating under the name Gilroy Express have petitioned the Railroad Commission for an order approving the sale and transfer by them to J. Hills Wythe, Rudolph E. Hoerler and William G. Wahl, operating under the name Valley Truck Line, of an operating right for an automotive service for the transportation of property between San Francisco, on the one hand, and Coyote and Hollister and points intermediate on the other hand, and J. Hills Wythe, Rudolph E. Hoerler and William G. Wahl, copartners, 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 "A", is attached to the application and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$500.00, which sum is declared to be the value of intangibles. No equipment is to be transferred.

The operating right herein proposed to be transferred was created by Decision No. 14388, dated December 22, 1924 and Decision No. 14425, dated January 2, 1925, on Application No. 10296.

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.

J. Hills Wythe, Rudolph E. Hoerler and William G. Wahl, copartners, operating under the name Valley Truck Line 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 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 James Bell and Charles Griffin, copartners, shall immediately unite with applicants J. Hills Wythe, Rudolph E. Hoerler and William G. Wahl, copartners, in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Bell and Griffin on the one hand withdrawing, and applicants Wythe, Hoerler and Wahl on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants Bell and Griffin shall immediately withdraw time schedules filed in their name with the Railroad Commission and applicants Wythe, Hoerler and Wahl shall immediately file, in duplicate, in their own name time schedules covering service heretofore given by applicants Bell and Griffin, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Bell and Griffin 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 Wythe, Hoerler and Wahl 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 14<sup>th</sup> day  
of February 1933.

C. L. Severy  
Leon Whitehall  
W. A. Carr  
W. B. Harris  
Walter W. Warr  
COMMISSIONERS.