

Decision No. 11151

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of)
 DAVID SCHMIDT and F. K. EMICH for)
 authority to dissolve their copartner- :
 ship and sell to each other certain por- : Application No. 8312
 tions of the automobile truck line now)
 being operated by them as co-partners :
 between Fresno and Cutler via Dinuba,)
 Sultana and Orosi.

BY THE COMMISSION.

ORDER

David Schmidt and F. K. Emich applicants in the present proceeding are at this time co-partners operating an automobile truck line as a common carrier of freight between Fresno, Reedley, Dinuba, Sultana, Orosi and Cutler.

It appears from the application that applicants herein desire to dissolve the existing co-partnership and divide the equipment between the two co-partners and to operate truck service as individuals, one to operate between Fresno and Dinuba, the other between Fresno, Sultana, Orosi and Cutler.

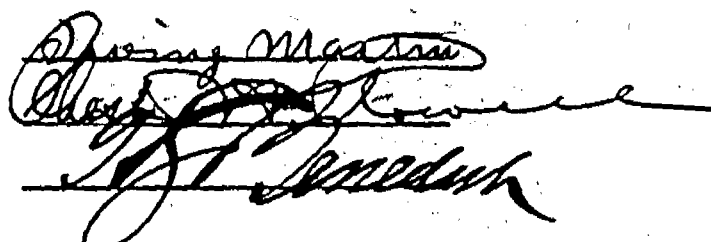
Under Decision No. 7222 in Application No. 4096, dated March 8, 1920, one J. M. Parrish was granted a certificate of public convenience and necessity authorizing the operation of an automobile freight line between Fresno, Reedley, Dinuba, Sultana, Orosi, Cutler and intermediate points, provided no freight whatsoever would be handled between Fresno and Kingsburg. This operative right was subsequently transferred to a co-partnership consisting of Schmidt and Emich

under Decision No. 7973 in Application No. 5904, dated August 10, 1920.

Under Decision No. 7222 in Application No. 4096, the Railroad Commission found that a public necessity existed for a specific service and in accordance therewith established a single and indivisible operative right, which operative right was later transferred under Decision No. 7973 to the co-partnership. This co-partnership now proposes, under the present application to divide their physical assets and to create two independent operative rights out of the one heretofore created by the Commission. The Commission has repeatedly held that an operative right is indivisible and that through transfer it cannot be enlarged upon nor more than one right created where only one heretofore existed. Accordingly, the present application must be denied.

IT IS HEREBY ORDERED that the above entitled application be, and the same hereby is denied.

Dated at San Francisco, California, this 23^d day of October, 1922.


Commissioners