

Decision No. 26452

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
the SAN RAFAEL FREIGHT AND TRANSFER  
COMPANY, a corporation, to sell and  
transfer, and MARINE SERVICE CORPOR-  
ATION TO purchase and acquire the  
operative rights of SAN RAFAEL FREIGHT  
and TRANSFER COMPANY, permitting  
operation by it of auto trucks and  
vessels for the transportation of  
property for compensation between  
the City and County of San Francisco  
and the City of San Rafael, County of  
Marin, State of California.

ORIGINAL

Application No. 19133

BY THE COMMISSION -

OPINION and ORDER

San Rafael Freight and Transfer Company, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to Marine Service Corporation, a corporation, of operating rights for an automotive service and a service by vessels upon the inland waters of the State for the transportation of property between San Francisco and Sausalito, Belvedere, California City, San Rafael and Marin Meadows, and certain intermediates, and Marine Service Corporation has 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 \$1000.00. This sum is declared to be the value of intangibles. No equipment is to be transferred.

The operating rights herein proposed to be transferred were created (a) by operation of vessels upon the inland waters of the State prior to August 16, 1933, (Section 50(d), Public Utilities Act), and (b) by Decision No.22062, dated January 20, 1930, on Application No.16194, and (c) by Decision No.12519, dated August 22, 1923, on Application No.9135, and as modified in part by Decision No.25185, dated September 19, 1932, in Case No.3150.

Applicant San Rafael Freight and Transfer Company was cited to appear before this Commission (Case No.3640) instituted July 21, 1933, to show cause why its certificated and prescriptive rights should not be revoked for failure to pay C.O.D. accounts due shippers. Public hearings were held and the matter submitted and held in suspense pending settlement of the amounts due shippers by John D. Stine, its President and owner of practically all its stock. Thereafter, Stine settled C.O.D. accounts aggregating approximately \$600 and similar accounts appear to have been paid with reasonable promptness since. Applicant San Rafael Company lost its only vessel by foreclosure and has operated for several months with leased equipment. Its business has been unprofitable and creditors are pressing claims, aggregating approximately \$5000. Outside of its certificates and prior rights and several obsolete trucks and some office equipment the company has no assets. By the transfer proposed, Marine Service Corporation will pay \$1000. for the rights, which payment is to be distributed by counsel for both parties among the creditors of San Rafael Freight and Transfer Company, together with any amount that may be obtained by salvage of other assets. In addition, Marine Corporation agrees to deliver to John D. Stine and A. H. Marx, former owners of the stock of San Rafael Company, each 50 shares of stock of the Marine Corporation to liquidate claims of \$8500 by Stine

and \$8000 by Marx against San Rafael Company. It is proposed to dissolve San Rafael Freight and Transfer Company as soon as proper. The instant application, however, does not ask authority to issue and deliver this stock and the issuance of additional stock for this purpose is not herein authorized.

Marine Service Corporation appears to have satisfactory financial resources for the business it seeks to possess; it now has one vessel used in contract service at East Bay points; it asserts ability to provide trucks necessary and has other going concern property useful in the carriage between San Francisco and Marin county points.

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.

Marine Service Corporation 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. Applicant San Rafael Freight and Transfer Company shall immediately unite with applicant Marine Service Corporation in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant San Rafael Freight and Transfer Company on the one hand

withdrawing and applicant Marine Service Corporation on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant San Rafael Freight and Transfer Company shall immediately withdraw time schedules filed in its name with the Railroad Commission and applicant Marine Service Corporation shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicant San Rafael Freight and Transfer Company, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant San Rafael Freight and Transfer Company, 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 applicant Marine Service Corporation unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

The effective date of this order shall be fifteen (15) days from the date hereof.

Dated at San Francisco, California, this 23rd day of October, 1933.

P. L. Sawyer  
Leon Whiteley  
W. A. Cunn  
M. B. Kamm  
W. H. ...  
COMMISSIONERS.