

28991

Decision No. 28991

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
SAN JOAQUIN & EASTERN RAILROAD COMPANY, )  
a corporation, for authority to sell, )  
and of G. L. FORTIER and C. E. FORTIER, )  
a copartnership, to acquire all of the ) Application  
right, title and interest of said corpor- ) No.19405  
ation in and to automobile passenger, )  
express and freight line operating in )  
the County of Fresno. )

BY THE COMMISSION -

OPINION and ORDER

San Joaquin and Eastern Railroad Company, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to G. L. Fortier and C. E. Fortier, a copartnership, of operating rights for an automotive service for the transportation of passengers and property between Fresno, Auberry, Toll House, Huntington Lake and Florence Lake, and G. L. Fortier and C. E. Fortier 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 \$4000. Of this sum \$1625. is declared to be the value of equipment and \$2375. is declared to be the value of intangibles.

The operating rights herein proposed to be transferred were created by Decision No.22717, dated July 25, 1930, and Decision No.25371, dated November 21, 1932, both on Application No.16743.

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.

16

G. L. and C. E. Fortier, co-partners, 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 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 Joaquin & Eastern Railroad Company shall within twenty (20) days after the effective date of the order 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, applicant San Joaquin & Eastern Railroad Company 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. Applicant San Joaquin & Eastern Railroad Company shall within twenty (20) days after the effective date of the order withdraw time schedules filed in its name with the Railroad Commission, and applicants G. L. and C. E. Fortier shall within twenty (20) days after the effective date of the order file, in duplicate, in their own names time schedules covering service heretofore given by applicant San Joaquin & Eastern Railroad Company, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant San Joaquin & Eastern Railroad 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 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 13<sup>th</sup> day of April, 1934.

C. L. ...

M. A. ...

M. B. Harris

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COMMISSIONERS.