

This is a matter in which a public hearing appears unnecessary. The application will be granted.

A. C. and F. H. Foss, 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.

ORDER

A. C. and F. H. Foss, co-partners, having made application for a certificate of public convenience and necessity to extend their automotive service for the transportation of milk and cream between Mission San Jose and San Jose via Milpitas as an extension and enlargement of their present operating right between Oakland and Berkeley, on the one hand, and San Leandro and Mission San Jose and intermediates, on the other,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment of such service as herein proposed.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be, and the same hereby is granted to A. C. and F. H. Foss, co-partners, subject to the following conditions:

1. Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.

2. Applicants shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than ten days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application, in so far as they conform to the certificate herein granted, or rates satisfactory to the Railroad Commission.

3. Applicants shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. No vehicle may be operated by applicants herein 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.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 28th day of January, 1935.

Leon A. ...
M. A. ...
M. B. ...
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COMMISSIONERS.