

Decision No. 28694

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PEOPLES EXPRESS COMPANY, a corporation,
and HASLETT WAREHOUSE COMPANY, a cor-
poration, for an order approving the
assignment by Peoples Express Company
to Haslett Warehouse Company of Motor
Carrier Freight Franchises and Opera-
ting Rights between San Francisco and
the following points: Oakland, Albany,
Alameda, Berkeley, Piedmont and Emery-
ville; and for an Order permitting the
Haslett Warehouse Company to operate
said Franchises and all others under
the name of PEOPLES EXPRESS COMPANY.

Application No. 20436.

BY THE COMMISSION:

O P I N I O N

Peoples Express Co., a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to Haslett Warehouse Company, a corporation, of an operating right for the automotive transportation as a highway common carrier of property between San Francisco and certain east bay communities including Oakland, Berkeley, Alameda, Piedmont, Emeryville, Fruitvale, Melrose and Albany; and Haslett Warehouse Company has 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 herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as the nominal sum of one (\$1) dollar.

The operating right herein proposed to be transferred is a prescriptive right created through operation prior to

ORIGINAL

May 1, 1917.

Haslett Warehouse Company 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.

O R D E R

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 for any purpose other than the transfer herein authorized.

2. Applicant Peoples Express Co. shall within twenty (20) days after the effective date of the order herein unite with applicant Haslett Warehouse Company in common supplement to the tariffs on file with the Commission, covering service given under the operating right herein authorized to be transferred, applicant Peoples Express Co. withdrawing and applicant Haslett Warehouse Company accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Peoples Express Co. shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in its name with the Railroad Commission and applicant Haslett Warehouse Company shall within twenty (20) days after the effective date of the order herein file, in duplicate, in its own name time schedules covering service heretofore given by applicant Peoples Express Co., which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Peoples Express Co. 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 obtained.

5. No vehicle may be operated by applicant Haslett Warehouse Company 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.

6. The authority herein granted to sell and transfer the right and/or property shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

Dated at San Francisco, California, this 16th day
of April, 1936.

M. B. Harris

Leon C. Whisely

M. A. Pugh

A. D. McArthur

Frank R. Nelson

COMMISSIONERS.