

Decision No. 28994

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
HARLEY A. HIGDON and W. H. SHEETS, a  
copartnership doing business under the  
fictitious firm name and style of  
OVERLAND TRANSFER COMPANY, to sell; and  
OVERLAND TRANSFER COMPANY, a corporation  
to purchase an automobile freight line  
operated between Stockton and Lodi,  
California.

Application No. 20654

BY THE COMMISSION:

O P I N I O N

ORIGINAL

Harley A. Higdon and W. H. Sheets, copartners, operating under the name and style of Overland Transfer Company have petitioned the Railroad Commission for an order approving the sale and transfer by them to Overland Transfer Company, a corporation, of an operating right for the automotive transportation as a highway common carrier of property between Stockton and Lodi and intermediate points; and Overland Transfer Company, a corporation, 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 \$500, which is alleged to be the value of the intangibles.

No transfer of equipment is involved in this proceeding.

The operating right herein proposed to be transferred was acquired by authority of Decision No. 15579, dated October 29, 1925 on Application No. 11844.

This appears to be a matter in which a public hearing is not necessary. The application will be granted.

Overland Transfer 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 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. Applicants Earley A. Higdon and W. H. Sheets shall within twenty (20) days after the effective date of the order herein unite with applicant Overland Transfer Company, a corporation, in common supplement to the tariff on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicants Earley A. Higdon and W. H. Sheets withdrawing and applicant Overland Transfer Company, a corporation, accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants Earley A. Higdon and W. H. Sheets shall within twenty (20) days after the effective date of the

order herein withdraw all time schedules filed in their names with the Railroad Commission and applicant Overland Transfer Company, a corporation, 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 applicants Harley A. Higdon and W. H. Sheets which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicants Harley A. Higdon and W. H. Sheets 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 Overland Transfer Company, a 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.

6. The authority herein granted to sell and transfer the rights 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 18<sup>th</sup> day of July, 1936.

M. B. Harris

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William H. ...

Frank R. ...  
COMMISSIONERS

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Dated at San Francisco, California, this 18<sup>th</sup> day of July, 1936.

W. B. Harris

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W. H. Sheets

Frank R. W. W. W.  
COMMISSIONERS