

Decision No. 28585

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of H. FRASHER, doing business under the)
name and style of H. FRASHER an individual,)
to sell and FRASHER TRUCK CO., INC. to)
purchase a motor truck service for the)
transportation of property under contract)
for Valley Express Co., an express)
corporation and other carriers of the same)
class between Oakland, Emeryville, Berkeley)
and San Leandro on the one hand and San)
Jose, Santa Clara and all intermediate)
points between Oakland and San Jose on the)
other hand.)

Application
No. 21022

BY THE COMMISSION:

ORIGINAL

O P I N I O N

H. Frasher, an individual, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Frasher Truck Co., Inc., of an operating right for the automotive transportation as a highway common carrier of property between Oakland, Livermore and San Jose and Santa Clara and certain other points as specifically created, defined and restricted in the decision hereinbelow set forth; and Frasher Truck Co., Inc., 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 \$3,987.70, which is alleged by the applicant to be the value of the equipment.

The operating right herein proposed to be transferred was created by decision No. 28199, dated September 3, 1935, on Application No. 19976. This appears to be a matter in which a public hearing is not necessary. The application will be granted.

Frasher Truck Co., Inc., 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 H. Frasher shall within twenty (20) days after the effective date of the order herein unite with applicant Frasher Truck Co., Inc., in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant H. Frasher withdrawing and applicant Frasher Truck Co., Inc., accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant H. Frasher shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in his name with the Railroad Commission and applicant Frasher Truck Co., Inc., 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 H. Frasher 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 Frasher Truck Co., Inc., 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.

7. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

Dated at San Francisco, California, this 5th day of
March, 1937.

[Signature]
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COMMISSIONERS.