ORIGINAL

Decision No. 30008

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of K. G. Harris, doing business as the Harris Drayage Company, to sell and transfer and C. M. Gordon to purchase and operate automobile truck service for the transportation of fresh fruits and vegetables between Esparto and Rumsey on one hand and San Francisco and Oakland on the other.

Application No. 21381

BY THE COMMISSION:

<u>O P I N I O N</u>

K. G. Harris, doing business as Harris Drayage Company, has petitioned the Railroad Commission for an order approving the sale and transfer by him to C. M. Gordon of an operating right for the automotive transportation as a highway common carrier of fresh fruits and vegetables from the territory between Rumsey and Esparto, on the one hand, to Oakland and San Francisco, on the other hand; and C. M. Gordon has petitioned for authority to purchase and acquire said operating right and to hereafter operate thoreunder, 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 \$1,000. Of this sum \$500 is alleged by the applicant to be the value of the equipment and \$500 is alleged to be the value of the intangibles.

The operating right herein proposed to be transferred was created by Decision No. 28935, dated June 29, 1936, on Application No. 20563.

1.

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

C. M. Gordon 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.

ORDER

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 K. G. Harris shall within twenty (20) days after the effective date of the order herein unite with applicant C. M. Gordon in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be tansferred, applicant C. M. Gordon accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant K. G. Harris 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 C. M. Gordon shall within twenty (20) days after the effective date of the order herein file, in duplicate, in his own name time schedules covering service heretofore given by applicant K. G. Harris which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant K. G. Harris 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 K. G. Gordon unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

5. 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 $\frac{g}{2k}$ day of mak , 1937.

commissioners.