

Decision No. 30096

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Consolidated Shippers, Inc. to sell and F. M. Hodge, John D. Kwis, and Henry Hodge, a copartnership doing business as Nevada Consolidated Shippers to purchase an automobile freight line operated between Los Angeles, Colton, and San Bernardino, on the one hand and all points between Yermo (but not including Yermo) and the California - Nevada State Line near Wheaton Springs, on the other hand.

ORIGINAL

Application
No. 21434

BY THE COMMISSION:

O P I N I O N

Consolidated Shippers, Inc. has petitioned the Railroad Commission for an order approving the sale and transfer by it to F. M. Hodge, John D. Kwis and Henry Hodge, a copartnership doing business as Nevada Consolidated Shippers, of an operating right for the automotive transportation as a highway common carrier of property between Los Angeles and a point on the California-Nevada State Line near Wheaton Springs, as defined in Decision No. 25545, and F. M. Hodge, John D. Kwis and Henry Hodge, a copartnership, have 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 \$3,000. Of this sum \$500 is alleged by the applicant to be the value of the equipment and \$2,500 is alleged to be the value of the intangibles.

The operating right herein proposed to be transferred was created by Decision No. 25545, dated January 16, 1933, on Application No. 18364.

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

F. M. Hodge, John D. Kwis and Henry Hodge 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.

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 Consolidated Shippers, Inc. shall within twenty (20) days after the effective date of the order herein unite with applicants F. M. Hodge, John D. Kwis and Henry Hodge in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Consolidated Shippers, Inc., withdrawing and applicants F. M. Hodge, John D. Kwis and Henry Hodge accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Consolidated Shippers, Inc. 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 applicants F. M. Hodge, John D. Kwis and Henry Hodge shall within twenty (20) days after the effective date of the order herein file, in duplicate, in their own names time schedules covering service heretofore given by applicant Consolidated Shippers, Inc., which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Consolidated Shippers, Inc. 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 applicants F. M. Hodge, John D. Kwis and Henry Hodge 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.

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.

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.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 7th day of September, 1937.

Arthur H. Hodge
John D. Kwis

Ray & Rice
COMMISSIONERS.