

Decision No. 30793

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
RENA NICKELL, Administratrix of the
Estate of A.W. Nickell, deceased, Seller
and AMERICAN VAN LINES, INC., a cor-
poration, Buyer, for an order
authorizing the former to sell and
convey and the latter to purchase and
acquire the operative right herein
mentioned.)

ORIGINAL

Application No. 21830

BY THE COMMISSION:

O P I N I O N

Rena Nickell, administratrix of the estate of A. W. Nickell, deceased, has petitioned the Railroad Commission for an order approving the sale and transfer by her to American Van Lines, Inc., a corporation, of an operating right for the automotive transportation as a highway common carrier of household goods, both new and second-hand office furniture and personal effects, between San Jose, San Francisco, Oakland and other East Bay cities, Los Angeles and intermediate points; and American Van Lines, Inc., 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 "C," 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 \$5,000, all of which is alleged to be the value of the intangibles. No equipment is involved in the transfer.

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

The operating right herein proposed to be transferred is a prescriptive right as more clearly set out by the Commission in Decision No. 26993, dated April 30, 1934, in Case No. 3478.

American Van Lines, 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.

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 Rena Nickell, as administratrix of the estate of A. W. Nickell, shall within twenty (20) days after the effective date of the order herein unite with applicant American Van Lines, Inc., in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Rena Nickell withdrawing and applicant American Van Lines, Inc., accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Rena Nickell shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in her name with the Railroad Commission and applicant American Van Lines, 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 Rena Nickell which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Rena Nickell 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.

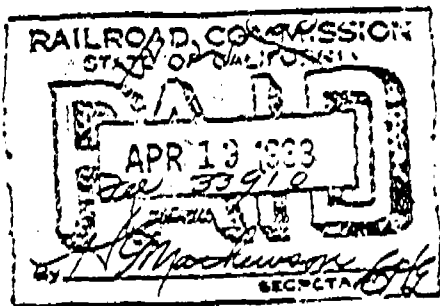
5. No vehicle may be operated by applicant American Van Lines, Inc., unless such vehicle is owned by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

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 the provisions of this Commission's General Order No. 91.

8. This order shall become effective when applicant American Van Lines, Inc., has paid the minimum fee of \$25 required under Section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 18th day of April, 1938.



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COMMISSIONERS