

Decision No. 30998

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
F. M. Hodge, John D. Kwis, and Henry)
N. Hodge, a co-partnership, doing busi-)
ness as Nevada Consolidated Shippers,)
to sell, and Nevada Consolidated Fast)
Freight, a corporation, 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, and for ratification of stock)
structure of purchaser.)

Application No. 22023

ORIGINAL

BY THE COMMISSION:

O P I N I O N

F. M. Hodge, John D. Kwis and Henry N. Hodge, a copartnership, doing business under the name and style of Nevada Consolidated Shippers, have petitioned the Railroad Commission for an order approving the sale and transfer by them to Nevada Consolidated Fast Freight, a corporation, of an operating right for the automotive transportation as a highway common carrier of property 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; and Nevada Consolidated Fast Freight, 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 interstate common carrier operative right of the copartnership, with which we are not concerned, will also be transferred.

The consideration to be paid for the property to be transferred is the sum represented by the value of 905½ shares of the capital stock of Nevada Consolidated Fast Freight now outstanding. Although applicants allege that certain equipment is to be transferred they do not make a segregation of the purchase price in so far as the intrastate feature is concerned. The consideration being paid for the intrastate certificate is said to be about \$1500.

The transaction referred to does not involve the issue of stock but only the transfer of shares of stock now outstanding. Outstanding shares of stock may be transferred without permission from the Commission.

The operating right herein proposed to be transferred originated by authority of Decision No. 25545, dated January 16, 1933, on Application No. 13364, and was acquired by applicant copartnership under authority of Decision No. 30096, dated September 7, 1937, on Application No. 21434.

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

Nevada Consolidated Fast Freight 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. Applicants F. M. Hodge, John D. Kwis and Henry N. Hodge shall within twenty (20) days after the effective date of the order herein unite with applicant Nevada Consolidated Fast Freight in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicants F. M. Hodge, John D. Kwis and Henry N. Hodge withdrawing and applicant Nevada Consolidated Fast Freight accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants F. M. Hodge, John D. Kwis and Henry N. Hodge shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in their name with the Railroad Commission and applicant Nevada Consolidated Fast Freight 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 F. M. Hodge, John D. Kwis and Henry N. Hodge which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicants F. M. Hodge, John D. Kwis and Henry N. Hodge 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 Nevada Consolidated Fast Freight 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.

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

Dated at San Francisco, California, this 20th day of
June, 1938.

Walter W. Mason
Frank C. Whitely
Joan R. Hill
Karl W. Griffin
Ray L. Kelley
COMMISSIONERS.