

Decision No. 31326

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
L. P. KERNER, JR., doing business as
KERNER MOTOR COMPANY, Seller, and
WILLIAM DINELLI, Buyer, for an Order
of the Commission authorizing the
sale and transfer of the operative
rights herein mentioned.

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Application No. 22257
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BY THE COMMISSION:

O P I N I O N

L. P. Kerner, Jr. operating under the name and style of Kerner Motor Company has petitioned the Railroad Commission for an order approving the sale and transfer by him to William Dinelli of an operating right for the automotive transportation as a highway common carrier of property from certain points in the Sacramento River Delta region, near Stockton, on the one hand; to Oakland and San Francisco on the other hand, and William Dinelli 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 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 to be the value of the intrastate right and \$500 is alleged to be the value of the interstate right. No equipment is to be transferred.

The operating right herein proposed to be transferred was created by Decision No. 28611 on Application No. 20154 and Decision No. 30283 on Application No. 21495.

William Dinelli 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 William Dinelli shall within twenty (20) days after the effective date of the order herein unite with applicant L. P. Kerner, Jr. in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant William Dinelli withdrawing and applicant L. P. Kerner, Jr. accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant L. P. Kerner, Jr. 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 William Dinelli 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 L. P. Kerner, Jr. which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant L. P. Kerner, Jr. 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 William Dinelli 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.

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 commencement of service authorized herein and continuously thereafter comply with all the provisions of this Commission's General Order No. 91.

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

Dated at Los Angeles, California, this 3rd day of

October, 1938.

Raymond J. Riley
Leon C. Whittell
James R. Smith
Ray L. Riley

COMMISSIONERS