

ORIGINAL

Decision No. 34654

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of A. W. HAYS to sell, and J. A. GRITSCH, doing business under the firm name and style of OREGON-CALIFORNIA FAST FREIGHT, to purchase a certificate to operate as a common carrier by motor vehicle for the transportation of certain commodities and between certain points as designated and set forth in Decisions Nos. 30089 and 30361.

Application No. 22488

BY THE COMMISSION:

O P I N I O N

A. W. Hays has petitioned the Railroad Commission for an order approving the sale and transfer by him to J. A. Gritsch, doing business under the firm name and style of Oregon-California Fast Freight, of an operative right for the transportation of property as a highway common carrier between Corning and San Francisco, as more particularly set forth in the decisions creating said right; and J. A. Gritsch has petitioned for authority to purchase and acquire said operating right and 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 \$300, all of which sum is alleged to be the value of the intangibles.

The operative right herein proposed to be transferred was created by Decisions Nos. 30089 and 30361 on Application No. 20413.

This does not appear to be a matter in which a public hearing is necessary and the authority requested will be granted.

J. A. Gritsch 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 ORDERED that A. W. Hays is hereby authorized to transfer the above described operative right to J. A. Gritsch, and J. A. Gritsch is hereby authorized to acquire said operative right and to hereafter operate thereunder 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 A. W. Hays shall within twenty (20) days after the effective date of the order herein unite with applicant J. A. Gritsch in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Hays withdrawing and applicant Gritsch accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Hays 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 Gritsch 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 Hays which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Hays 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 Critsch 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 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 16th day of
January, 1939.

Ray B. Whipple
Frank P. Sullivan
Ray A. Scully
W. H. H. H.
Justice J. Caswell
COMMISSIONERS