

Decision No. 31694

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
ROSEVILLE-LINCOLN TRUCK,  
to sell and transfer, and EL DORADO  
MOTOR TRANSPORT COMPANY, a corporation,  
to receive and accept an automobile  
freight line operated between Lincoln,  
California, and Sacramento, California,  
via Roseville, California.

ORIGINAL

Application No. 22505

BY THE COMMISSION:

OPINION AND ORDER

This is an application for an order authorizing J. L. Fithian and Louis Sposito, co-partners doing business under the firm name and style of Roseville-Lincoln Truck, to transfer auto truck operating rights to El Dorado Motor Transport Company, a corporation.

Applicants are engaged in business as highway common carriers transporting freight under and pursuant to certificates of public convenience and necessity heretofore granted by the Commission. The Roseville-Lincoln Truck operates between Sacramento and Lincoln, via Roseville and intermediate points, and El Dorado Motor Transport Company between Sacramento and Lake Tahoe, via Placerville, and between Sacramento and Jackson.

The application shows that the co-partners who own the Roseville-Lincoln Truck are the stockholders owning the majority of the outstanding stock of El Dorado Motor Transport Company, that the two carriers operate out of the same Sacramento terminal and that the two businesses are conducted from the same office. It appears that those in control of the affairs of the two carriers, in order to simplify the keeping of records, filing of tariffs and reports, etc., have concluded to consolidate the two operations under one ownership and to that end have made arrangements

to transfer the certificate under which the Roseville-Lincoln operations are conducted, to the corporation. A copy of the agreement of transfer dated January 11, 1939, between said applicants, has been filed with the application.

The co-partners report they own no equipment or assets other than the goodwill and the operating rights and a small amount of office equipment and supplies and accounts receivable of a total reported value of less than \$250.00. The consideration to be paid for the properties is the release and discharge of the debt of the Roseville-Lincoln Truck to the corporation in the amount of \$9,828.50.

The certificate of public convenience and necessity now to be transferred originally was granted by the Commission by Decision No. 6530, dated July 30, 1919, in Application No. 4580, to R. M. Fowler who later, pursuant to authority granted by Decision No. 8394, dated November 27, 1920, in Application No. 6296, transferred it to M. H. Fredericks who in turn, under Decision No. 11961, dated April 24, 1923, in Application No. 8912, transferred it to the present owners.

The Commission has considered the present application and is of the opinion that this is a matter in which a public hearing is not necessary and that the request of applicants should be granted. In making the order herein, however, the Commission wishes to place El Dorado Motor Transport Company upon notice that certificates of public convenience and necessity granting operating 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 in the number of rights which may be given.

IT IS HEREBY ORDERED that J. L. Fithian and Louis Sposito, co-partners doing business under the firm name and style of Roseville-Lincoln Truck Co., and they hereby are authorized to transfer to El Dorado Motor Transport Company, a corporation, on or before February 28, 1939, the certificate of public convenience and necessity acquired by them under authority granted by Decision No. 11961, dated April 24, 1923, in Application No. 8912, such transfer to be made in accordance with the agreement between said applicants dated January 11, 1939.

The authority herein granted is subject to the following conditions:-

1. J. L. Fithian and Louis Sposito, co-partners, and El Dorado Motor Transport Company, a corporation, applicants herein, within twenty(20) days after <sup>effective</sup> ~~the~~ date of the order, shall join in a common supplement to be filed with the Commission in triplicate, the former withdrawing from the tariffs on file by them with the Commission naming rates and charges for the transportation of property, and the latter adopting and establishing as its own such tariffs and all effective supplements thereto.
2. El Dorado Motor Transport Company shall file, in duplicate, within twenty(20) days after the effective date of this order, time schedules covering its service under the operating rights herein authorized to be transferred to it, such time schedules to be identical with those heretofore filed by J. L. Fithian and Louis Sposito, or time schedules satisfactory to the Commission.
3. The rights and privileges herein authorized to be transferred may not hereafter be sold, transferred, leased nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission has first been secured.

4. No vehicle may be operated by El Dorado Motor Transport Company under the authority herein granted, unless such vehicle is owned by it or is leased by it under a contract or agreement on a basis satisfactory to the Commission.

5. 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.

6. El Dorado Motor Transport Company shall, prior to the commencement of service as authorized herein, and continuously thereafter, comply with all the provisions of the Commission's General Order No. 91.

7. The authority herein granted will become effective upon the date hereof.

DATED at San Francisco, California, this 30<sup>th</sup> day of January, 1939.

Robert W. Brown  
Frank J. Brown  
W. J. Kelly  
W. J. Kelly  
Justice J. Carmichael  
COMMISSIONERS.