

Decision No. 32203

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
A. C. BISHER to sell and E. W. RAE to
purchase an automobile freight line for
the transportation of property between
San Diego on the one hand, and Ramona
and Lakeside and intermediate points,
on the other hand.

Application No. 22874

ORIGINAL

BY THE COMMISSION:

O P I N I O N

A. C. Bisher, doing business as Bisher's Truck Line, has petitioned the Railroad Commission for an order approving the sale and transfer by him to E. W. Rae of an operative right for the automotive transportation of property as a highway common carrier between San Diego and Ramona, and E. W. Rae has petitioned for authority to purchase and acquire said operative right and hereinafter operate thereunder. The sale and transfer is 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 \$8750. Of this amount \$6000 represents the value of the equipment and \$2750 is alleged to be the value of the intangibles.

Under the terms of the agreement a cash payment is to be made by the purchaser to the seller within five days after the Commission grants authority to execute the transfer as proposed. The purchaser is to assume payments of \$1200 due on automotive equipment.

The operative right herein proposed to be transferred was created by Decision No. 5915, dated November 14, 1918, on Application No. 4176.

This does not appear to be a matter requiring a public hearing and the authority requested will be granted.

E. W. Rae 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 ORDERED that A. C. Bisher is hereby authorized to transfer to E. W. Rae the operative right and property referred to in the foregoing opinion and E. W. Rae is hereby authorized to acquire said property and operative right and hereafter operate thereunder, in accordance with the terms of the agreement, marked Exhibit "A," and attached to the application herein, subject to the following conditions:

The authority herein granted shall lapse and be void if applicant shall not have complied with all of 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.

2. 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.

3. Applicant A. C. Bisher shall within thirty (30) days after the effective date of the order herein, and upon not less than five (5) days' notice to the Commission and the public, unite with applicant E. W. Rae in common supplement to the tariffs on file with the Commission covering the service given under the operative rights herein authorized to be transferred, applicant A. C. Bisher withdrawing, and applicant E. W. Rae accepting and establishing, such tariffs and all effective supplements thereto.

4. Applicant A. C. Bisher shall within thirty (30) days after the effective date of the order herein, and upon not less than five (5) days' notice to the Commission and the public, withdraw all time schedules filed in his name with the Railroad Commission, and applicant E. W. Rae shall within thirty (30) days after the effective date of the order herein, and upon not less than five (5) days' notice to the Commission and the public, file in duplicate in his own name time schedules covering service heretofore given by applicant A. C. Bisher which time schedules shall be satisfactory to the Railroad Commission.

5. 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.

6. No vehicle may be operated by applicant E. W. Rae 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.

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 1st day of August, 1939.

R. B. Walbridge
Rayl Rae
H. H. Bates
Justin J. Greene
COMMISSIONERS