32553 Decision No. BEFORE THE RAILROAD CONNISSION OF THE STATE OF CA In the Matter of the Application of E. W. Rae, to sell, and Lillian M. Rae, Earry W. Rae and E. W. Rae, a co-partnership, doing business as Bisher Truck Line, to purchase an automobile freight line for the transportation of property between Application No. 23097 San Diego, on the one hand, and Ramonal and Lakeside and intermediate points,) on the other hand. BY THE COMMISSION: OPINION E. W. Rao has petitioned the Railroad Commission for an order approving the sale and transfer by him to Lillian M. Rae, Harry W. Rae and E. W. Rae, a co-partnership, doing business as Bisher Truck Line, of an operative right for the automotive transportation of property as a highway common carrier between San Diego and Ramona. Lillian M. Rae, Harry W. Rae and E. W. Rae have potitioned for authority to purchase and acquire said operative right and hereafter to 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 shown to be the sum of \$2,750. Of this amount \$6,000 is alleged to represent the value of the equipment and \$2,750 is alleged to represent the value of the intangibles. The operative right herein proposed to be transferred was acquired by applicant E. W. Rae under the authority of the

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Commission's Decision No. 32203, dated August 1, 1939, on Application No. 22874.

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

Idlian M. Rae, Harry W. Rae and E. W. Rae are 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 pormissive aspect they extend to the holder a full or partial monopoly of a class of business over a particular route.

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rights which may be given.

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

IT IS ORDERED that E. W. Rae is hereby authorized to transfer to the co-partnership Lillian M. Rae, Harry W. Rae and E. W. Rae, the operative right and property referred to in the foregoing opinion, and Lillian M. Rae, Harry W. Rae and E. W. Rae are hereby authorized to acquire caid property and operative right, and hereafter to operate thereunder, in accordance with the terms of the agreement, marked Exhibit A, attached to the application herein, subject to the following conditions:

^{1.} The authority herein granted shall lapse and be void if applicants 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.

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, unite with applicants Lillian M. Rae, Harry W. Rae and 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 E. W. kae withdrawing, and applicants Lillian M. Rae, Harry W. Rae and E. W. Rae accepting and establishing, such tariffs and all effective supplements thereto. 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, withdraw all time schedules filed in his name with the Kailroad Commission and applicants Lillian M. Rae, Harry W. Rae and 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 their own name, time schedules covering service heretofore given by applicant E. W. Rae which time schedules shall be satisfactory to the Railroad Commission. 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 applicants Lillian M. Rae, Harry W. Rae and E. W. Rae unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Rae, Railroad Commission. 7. Applicants 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 144 day of November, 1939. -0-