

Decision No. 32238

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of CHAS. F. WILCOX, d/b/a J. D.  
MAYNARD COMPANY, to sell and ED-  
WARD EUGENE DUNNE, to purchase an  
automobile freight line operated  
between Sargent, California, on the  
one hand, and San Francisco and  
Oakland, California, on the other  
hand.

Supplemental  
Application No. 22397

ORIGINAL

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

On December 12, 1938, the Commission issued its Decision No. 31547 in this proceeding authorizing Chas. F. Wilcox to sell and transfer and Edward Eugene Dunne to purchase and acquire certain highway common carrier operative rights of specified commodities, between San Francisco, Oakland and points in Santa Clara County, as more particularly set forth therein. Such authority was granted subject to the condition that it would lapse and become void if the conditions attached thereto were not complied with within the times fixed in the order of said Decision No. 31547. The conditions of the order were not fully complied with and the authority for the transfer is now void.

On January 2, 1940 applicants, through counsel, filed a supplemental application requesting the Commission to issue its order authorizing applicant Wilcox to transfer said operative right to applicant Dunne in accordance with the allegations and prayer of the original application. Such request appears to be reasonable and

it will be granted. A public hearing in this matter does not appear to be necessary.

FIRST SUPPLEMENTAL ORDER

Good cause appearing,

IT IS ORDERED that the order contained in Decision No. 31547, dated December 12, 1938, in the above-entitled proceeding, and each and all of the terms and provisions thereof, be and they are hereby adopted and made a part hereof by reference, to the same extent and with the same force and effect as though the same were here set forth in full, provided, however, that in lieu of the conditions contained in the order of said Decision No. 31547 the following conditions be and they are hereby adopted and made a part hereof, to-wit:

1. The authority herein granted to sell and transfer the right 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.
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 Chas. F. Wilcox shall within twenty (20) days after the effective date of the order herein unite with applicant Edward Eugene Dunne in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Chas. F. Wilcox withdrawing and applicant Edward Eugene Dunne accepting and establishing such tariffs and all effective supplements thereto.
4. Applicant Chas. F. Wilcox 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 Edward Eugene Dunne 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 Chas F. Wilcox which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Chas. F. Wilcox or time schedules 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 Edward Eugene Dunne 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 16<sup>th</sup> day of  
January, 1940.

Ray S. Riley  
Gregory A. Smith  
Roger A. Smith

Justus F. Casner  
COMMISSIONERS