

Decision No. 32866

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
R. E. Wales to sell, and SACRAMENTO -)
CORNING FREIGHT LINES, LTD., a corporation) Application No. 23364
to purchase an automobile freight line)
operating between Sacramento, California,)
and Folsom, California, and certain)
intermediate points.)

BY THE COMMISSION:

O P I N I O N

Mr. R. E. Wales has petitioned the Railroad Commission for an order approving the sale and transfer by him to Sacramento-Corning Freight Lines, Ltd. of an operative right as a highway common carrier of property between Sacramento and Folsom. Sacramento-Corning Freight Lines, Ltd. has petitioned for authority to purchase and acquire said operative right and hereafter to operate thereunder. The sale and transfer is to be made in accordance with the terms of an agreement, 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 \$4,250. Of this sum \$1500 is alleged by applicants to be the value of the intangibles and \$2,750 is alleged to be the value of the equipment.

The operative right herein proposed to be transferred is that which was acquired by applicant R. E. Wales under authority of the Commission's Decision No. 32882, dated March 12, 1940, on Application No. 23286.

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

Sacramento-Corning Freight Lines, Ltd. 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 R. E. Wales is hereby authorized to transfer to Sacramento - Corning Freight Lines, Ltd., a corporation, and said Sacramento - Corning Freight Lines, Ltd. is hereby authorized to acquire the operative right referred to in the foregoing opinion in accordance with the terms of the agreement, marked Exhibit "A," attached to the application herein, and hereafter to operate thereunder, subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicants 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 R. E. Wales 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 Sacramento-Corning Freight Lines, Ltd. 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 R. E. Wales withdrawing, and applicant Sacramento-Corning Freight Lines, Ltd. accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant R. E. Wales 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 Sacramento-Corning Freight Lines, Ltd. 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 triplicate, in its own name, time schedules covering service heretofore given by applicant R. E. Wales 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 Sacramento-Corning Freight Lines, Ltd. unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

7. Applicant shall, prior to the commencement of service herein authorized and continuously thereafter, comply with all 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 2nd day of
April, 1940.

Ray L. Rice
James H. Mum
Robert H. Mum
W. H. Mum
Justin J. Calver
COMMISSIONERS