

Decision No. 33248

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
G. E. COVINGTON to sell and D. B.  
JORGENSEN to purchase an automobile  
freight line operated between Blythe  
and Palo Verde, California.

Application No. 23524

**ORIGINAL**

BY THE COMMISSION:

O P I N I O N

G. E. Covington has petitioned the Railroad Commission for an order approving the sale and transfer by him to D. B. Jorgenson of an operative right for the automotive transportation of property as a highway carrier between Palo Verde and Blythe, and D. B. Jorgenson 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 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 the sum of \$300. Of this sum, \$150 is alleged by applicants to be the value of the equipment and the remainder is alleged to be the value of the intangibles.

The operative right herein proposed to be transferred is that which was acquired by applicant G. E. Covington under

the authority of the Commission's Decision No. 19404, dated February 25, 1928, on Application No. 14425.

This is not a matter requiring a public hearing and the authority requested will be granted.

D. B. Jorgenson 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 G. E. Covington is hereby authorized to transfer to D. B. Jorgenson the operative right referred to in the foregoing opinion, and D. B. Jorgenson is hereby authorized to acquire said operative right and hereafter to operate thereunder, subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant 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 G. E. Covington 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 D. B. Jorgenson 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 G. E. Covington withdrawing, and applicant D. B. Jorgenson accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant G. E. Covington 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 D. B. Jorgenson 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 his own name time schedules covering service heretofore given by applicant G. E. Covington 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 D. B. Jorgenson 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 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 25<sup>th</sup> day  
of June, 1940.

Ray & Carey  
Franklin  
Ray & Carey  
W. B. Kelly  
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Commissioners