

Decision No. 23815

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HATTIE HARM, W. W. GARDNER, and GEORGE H. LIPS, Trustees of the Estate of GEORGE ROBERT HARM, a minor, to sell and VALLEY MOTOR LINES, INC., to purchase, certain highway common carrier freight lines operated between points in the State of California and to issue stock in payment therefor.

ORIGINAL

Application
No. 23815

BY THE COMMISSION:

O P I N I O N

Hattie Harm, W. W. Gardner and George H. Lips, as trustees of the estate of George Robert Harm, a minor, have petitioned the Railroad Commission for an order, or orders, authorizing them to transfer to Valley Motor Lines, Inc., a corporation, certain highway common carrier operative rights, automotive equipment, furniture and fixtures as hereinafter set forth. Valley Motor Lines, Inc. has petitioned the Commission for authority to purchase and acquire said operative rights and property and hereafter to operate thereunder.

Valley Motor Lines, Inc. has further petitioned for authority to issue in payment for such property 143 shares of its common capital stock of the aggregate par value of \$14,300. The transfer and stock issue are to be made in accordance with the terms and conditions of an agreement, dated November 12, 1940, by and between the applicants herein, a copy of which agreement, marked Exhibit "A," is attached to the application herein.

The physical properties proposed to be transferred include 3 trucks, 3 tractors, 5 trailers and miscellaneous furniture and fixtures. The highway common carrier operative rights proposed

to be transferred authorize highway common carrier services over a number of routes, in general between Fresno, Coalinga, Lemoore, Hanford, Stratford, Kettleman Hills and Caruthers, as created in George Harm,/^{since}deceased, by, and more particularly described in, the following decisions of this Commission, and decisions relevant thereto:

<u>Decision No.</u>	<u>Dated</u>	<u>Application No.</u>
20794	Feb. 18, 1929	5346
20721	Jan. 25, 1929	15331
21402	July 29, 1929	15806
21495	Aug. 30, 1929	15850
21684	Oct. 17, 1929	"
27396	Sept. 24, 1934	"
22811	Aug. 5, 1930	16798
31169	Aug. 8, 1938	20592

For the purpose of this proceeding the amount of the consideration hereinbefore referred to does not seem to be unreasonable and the order herein, accordingly, will authorize the issue of stock as prayed for.

This does not appear to be a matter in which a public hearing is necessary and the application will be granted as hereinafter set forth. Such order shall not be construed as consolidating the operative rights involved, nor shall it be construed as consolidating such rights with those now held by applicant Valley Motor Lines, Inc.

Valley Motor Lines, Inc. 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 Hattie Harm, W. W. Gardner and George H. Lips, as trustees of the estate of George Robert Harm, a minor, are hereby authorized to transfer to Valley Motor Lines, Inc., a corporation, and Valley Motor Lines, Inc., is hereby authorized to acquire the operative rights and properties 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.

IT IS FURTHER ORDERED that Valley Motor Lines, Inc. is hereby authorized to issue on or before January 31, 1941, not exceeding \$14,300 par value of its common capital stock, in full payment for the properties herein authorized to be acquired by it, it being the opinion of the Commission that the money, property, or labor, to be procured, or paid for, through the issue of said stock is reasonably required for the purpose specified herein, and that the expenditures for said purpose are not, in whole or in part, reasonably chargeable to operating expenses or to income, provided, that within thirty (30) days after such issue Valley Motor Lines, Inc. shall file with the Railroad Commission a report thereof as required by the Commission's General Order No. 24-A, which order, in so far as applicable, is made a part of this order.

The order for the transfer and acquisition of operative rights and property is subject to the following conditions:

1. Applicants shall, within thirty (30) days after the effective date of this decision, file with the Commission, a certified copy of any decree of partial distribution, which may be rendered in the matter of the estate of George Harm, deceased, by the Superior Court of the State of California, in and for the County of Fresno, distributing to applicant Valley Motor Lines, Inc. the operative rights and property herein authorized to be transferred to it.

2. 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.

3. 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.

4. Applicants Hattie Harm, W. W. Gardner and George H. Lips, as trustees of the estate of George Robert Harm, a minor, shall within thirty (30) days after the effective date of the order herein, and upon not less than one (1) day's notice to the Commission and the public, unite with applicant Valley Motor Lines, Inc. in common supplement to the tariffs on file with the Commission covering the service given under the operative rights herein authorized to be transferred, applicants Hattie Harm, W. W. Gardner and George H. Lips, as trustees of the estate of George Robert Harm, a minor, withdrawing, and applicant Valley Motor Lines, Inc. accepting and establishing such tariffs and all effective supplements thereto.

5. Applicants Hattie Harm, W. W. Gardner and George H. Lips, as trustees of the estate of George Robert Harm, a minor, shall within thirty (30) days after the effective date of the order herein, and upon not less than one (1) day's notice to the Commission and the public, withdraw all time schedules filed in their name with the Railroad Commission and applicant Valley Motor Lines, Inc. shall within thirty (30) days after the effective date of the order herein, and upon not less than one (1) day's notice to the Commission and the public, file in triplicate, in its own name, time schedules covering service heretofore given by applicants Hattie Harm, W. W. Gardner and George H. Lips, as trustees of the estate of George Robert Harm, a minor, which time schedules shall be satisfactory to the Railroad Commission.

6. 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.

7. No vehicle may be operated by applicant Valley Motor Lines, Inc. 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.

8. 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 26th day of November, 1940.

Ray L. Rice
Frank D. Hume
W. D. Miller
James J. Casner
COMMISSIONERS