

Decision No. 33918

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HENDRIX)	
TRUCK CORPORATION, a corporation, to sell,)	
and PRODUCE EXPRESS, a corporation, to buy)	
common carrier operative rights by motor)	Application
vehicle for the transportation of fresh fruits)	No. 23915
and vegetables and other commodities between)	
Imperial Valley points and Los Angeles,)	
California.)	

BY THE COMMISSION:

ORIGINAL

O P I N I O N

Hendrix Truck Corporation, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to Produce Express, a corporation, of a highway common carrier operative right from certain Imperial Valley points and within a fifteen-mile radius of said points, to Los Angeles, limited to the transportation of hay, straw, grain, fresh fruits, fresh vegetables, edible nuts, fresh or dried beans and fresh or dried peas and from Los Angeles to farms only at or within a fifteen-mile radius of said Imperial Valley points, limited to the transportation of box shoo, empty crates or boxes, fertilizers, insecticides and seeds and as further restricted. Produce Express has petitioned for authority to purchase and acquire said operative right and to hereafter 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 and made a part of the application.

The consideration to be paid for the property herein proposed to be transferred is given as the sum of \$2,550 which is declared to be the value of the operative right. No equipment is to be transferred.

The operative right herein proposed to be transferred was originally granted to E. M. and H. W. Hundrix by Decision No. 30498, dated January 3, 1938, on Application No. 20725, and subsequently acquired by the seller corporation under authority of Decision No. 30570, dated January 31, 1938, on Application No. 21694.

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

Produce Express 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 Hendrix Truck Corporation is hereby authorized to transfer to Produce Express the highway common carrier operative right referred to in the foregoing opinion and Produce Express is hereby authorized to acquire said operative right and to hereafter 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 Hendrix Truck Corporation 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 Produce Express in common supplement to the tariffs on file with the Commission covering the service given under the operative right herein authorized to be transferred, applicant Hendrix Truck Corporation withdrawing, and applicant Produce Express accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant Hendrix Truck Corporation 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 its name with the Railroad Commission and applicant Produce Express 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 Hendrix Truck Corporation 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 Produce Express 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 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~~ ^{Los Angeles}, California, this 18th day of February, 1941.

[Signature]
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COMMISSIONERS