

Decision No. 33007

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
J. W. SILVA to sell and R. D. SILVA)
to purchase an automobile freight)
line operated between Salinas, Calif.,) Application No. 24006
and San Francisco, Calif; also from)
Salinas, Calif., to San Jose, Mountain)
View and Oakland, Calif.)

BY THE COMMISSION:

ORIGINAL

O P I N I O N

J. W. Silva, an individual, has petitioned the Railroad Commission for an order approving the sale and transfer by him to R. D. Silva, an individual, of a highway common carrier operative right between San Francisco and points on the highway in the territory and over specifically described routes in the vicinity of Salinas, subject to certain restrictions and providing that on northbound trips delivery of freight may be made only to San Jose, Mountain View and Oakland. R. D. Silva has petitioned for authority to 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 and made a part of the application.

No consideration is to be paid for the property herein proposed to be transferred.

The operative right herein proposed to be transferred was created by Decision No. 22552, dated June 21, 1930, on Application No. 15858, and as amended by Decision No. 33007, dated April 16, 1940.

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

R. D. Silva 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 J. W. Silva is hereby authorized to transfer to R. D. Silva the highway common carrier operative right referred to in the foregoing opinion and R. D. Silva 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 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 J. W. Silva 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 R. D. Silva 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 J. W. Silva withdrawing, and applicant R. D. Silva accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant J. W. Silva 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 R. D. Silva 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 J. W. Silva 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 R. D. Silva 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 11th day of March, 1941.

[Signature]

[Signature]
Justus F. Cisneros
Francis D. Havens
COMMISSIONERS