

ORIGINAL

Decision No. 34365

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PETE BORDENAVE, an individual, to sell and BORDENAVE & BECKLEY, a co-partnership consisting of PETE BORDENAVE and GARRETT W. BECKLEY, to buy an automotive truck service for the transportation of live-stock as a highway common carrier, as set forth in Decision No. 32673 on Application No. 22372.

Application No. 24284

BY THE COMMISSION:

O P I N I O N

Pete Bordenave has petitioned the Railroad Commission for an order approving the sale and transfer by him to Bordenave & Beckley (a co-partnership consisting of Pete Bordenave and Garrett W. Beckley) of operating rights for the automotive transportation as a highway common carrier of livestock between various places in California, and Bordenave & Beckley, the co-partnership, has petitioned for authority to purchase and acquire said operating rights and to operate thereunder, hereafter, the sale and transfer to be in accordance with an agreement marked "Exhibit A" attached to the application and made a part thereof.

The consideration to be paid for the said operative rights is given as \$500. Said rights were created in Pete Bordenave by Decision No. 32673, dated December 19, 1939, in Application No. 22372, and authorized him to render "on call" service along the following described routes, including all intermediate points, with the right to make lateral departures therefrom within a radius of fifty miles of said routes:

1. U. S. Highway No. 101 between Salinas and Eureka.

2. U. S. Highway No. 99 between Los Angeles and the Oregon state line north of Hornbrook.
3. U. S. Highway No. 50 between San Francisco and Sacramento.
4. U. S. Highway No. 40 between San Francisco and the Nevada state line east of Truckee.
5. U. S. Highway No. 299 between Redding and Alturas.
6. State Highway No. 36 between Red Bluff and Susanville.

According to an affidavit attached to the application, applicant Pete Bordenave asserts that he has regularly and continuously operated the operative right above described ever since the effective date thereof, and that his gross revenue for the past year from said operations was \$194,617.81.

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

The co-partnership of Bordenave & Beckley 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.

Q E D E E

IT IS HEREBY ORDERED that the above-entitled application be and the same is hereby granted, subject to the following conditions:

1. The consideration to be paid for the operative right 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.

2. Applicant Pete Bordenave shall within twenty (20) days after the effective date of the order herein and upon not less than ten (10) days' notice to the Commission and to the public unite with applicant Bordenave & Beckley in common supplement to the tariff on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Pete Bordenave withdrawing and applicant Bordenave & Beckley accepting and establishing such tariffs and all effective supplements thereto.

3. 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.

4. No vehicle may be operated by applicant Bordenave & Beckley 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.

5. The authority herein granted to sell and transfer the operative rights here involved shall lapse and be void if the parties hereto 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.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 1<sup>st</sup> day of

July, 1941.

*[Handwritten signatures of four commissioners]*  
COMMISSIONERS