

Decision No. 36561

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
F. H. HOLLOWAY to transfer his high- )  
way common carrier operative rights )  
and business conducted under the )  
name of VALLEJO EXPRESS COMPANY to )  
F. E. WARD. )

**ORIGINAL**

Application No. 25720

BY THE COMMISSION:

O P I N I O N

In the application herein considered F. E. Holloway requests the authority of the Commission to sell and transfer all his highway common carrier operative rights and certain equipment to F. E. Ward. F. E. Ward requests authority to purchase and acquire said operative rights and equipment and thereafter to operate thereunder.

The rights involved were created by the following decisions of the Commission: Decision No. 25570, in Application No. 18526; Decision No. 30086, in Application No. 20814; Decision No. 30597, in Application No. 21723 and Decision No. 34265, in Application No. 24123. In general, they authorized service between San Francisco and Vallejo and between Oakland and Vallejo and Mare Island Navy Yard, all as more particularly defined in said decisions.

The equipment involved in the proposed transfer consists of 20 units of motor vehicle equipment and certain office and terminal supplies, fixtures and equipment all as set forth in Exhibit "A" attached to the application herein. The consideration involved is \$30,000. It is asserted that this sum represents the value of the physical assets proposed to be transferred. No value is ascribed

to the operative right.

Such may be the understanding between the parties, but it should be clearly understood that the authorization hereinafter granted is not an approval of the purchase price in any respect, nor a finding of value for the purpose of rate fixing, issuance of securities, accounting, or for any other purpose.

After full consideration of applicants' request it appears that the authority sought is in the public interest and should be granted. This is not a matter which requires a public hearing.

F. E. Ward is placed upon notice that "operative rights" as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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

Good cause appearing,

IT IS ORDERED as follows:

1. That F. H. Holloway may sell and transfer to F.E. Ward the equipment and other physical properties described in Exhibit "A"

attached to the application herein and the highway common carrier operative rights created by the following decisions of the Commission: Decision No. 25570, in Application No. 18526; Decision No. 30086, in Application No. 20814; Decision No. 30597, in Application No. 21723 and Decision No. 34265, in Application No. 24123. F. E. Ward may purchase and acquire said equipment, physical assets and operative rights and hereafter operate thereunder.

2. The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act and further to the condition that F. E. Ward, his successors or assigns, shall never claim before this Commission, or any court or other public body, a value for said operative rights or claim as the cost thereof, an amount in excess of that paid to the State as the consideration for such rights.

3. Applicants shall comply with the rules of the Commission's General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective tariffs and time tables satisfactory to the Commission within sixty (60) days from the effective date hereof, and on not less than five (5) days' notice to the Commission and the public.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, August 17, 1943.

Francis J. Haberman

H. H. Hall

Justin J. Gaiser

Richard L. Lachar

COMMISSIONERS