

Decision No. 37323

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of P. A. TAYLOR, to purchase and S. B. HERRICK and WILLIAM L. BROOKS, a co-partnership doing business as THE HERRICK COMPANY, to sell a freight line operated between Calistoga, Napa County and Adams Springs, Lake County, and intermediate points in the State of California.

ORIGINAL

) Application No. 26250

BY THE COMMISSION:

O P I N I O N

In this application, S. B. Herrick and William L. Brooks, co-partners doing business under the name of The Herrick Company, and engaged in the transportation of property by virtue of Decision No. 28263, between Calistoga and Adams Springs and intermediate points, request the Commission's authority to sell and transfer their operative rights and equipment to P. A. Taylor, who joins in the application.

The operative rights which it is proposed to transfer were acquired pursuant to Decision No. 28263, together with such prior rights as were created by operation by applicants Herrick and Brooks, on May 1, 1917, and continuously thereafter, under their Local Freight Tariff No. 1, C. R. C. No. 1, effective April 26, 1924 and filed with the Commission on the same date.

With the application is filed a copy of the bill of sale executed by the parties. The consideration is \$5,000 cash of which sum \$2,650 is said to represent the value of the equipment, consisting of three trucks, and \$2,350 the value of the operative rights.

Gross and net income from operations by transferor for the past five calendar years is stated in the application as follows:

<u>Year</u>	<u>Gross</u>	<u>Operating Expense</u>	<u>Profit</u>
1939	\$3,310.19	Incomplete and not known	
1940	2,803.41	\$2,202.20	\$ 601.21
1941	3,032.83	2,431.70	601.13
1942	3,015.04	2,193.44	821.60
1943	4,394.13	3,367.31	1,026.82
1944 - First four months:			
	2,006.91	378.39 *	1,628.52

* Applicant has filed a supplemental statement as of August 30 showing operating expenses of \$1,118.84 for the first four months of 1944.

The transferee, P. A. Taylor, is the principal stockholder in Mt. Lassen Motor Transit, Inc. operating passenger and freight service between Susanville and Red Bluff, and between other points in that area. He has stated net assets of \$92,400. The proposed transfer will not result in the consolidation of any operating rights acquired with those presently held by Mt. Lassen Transit Company.

If P. A. Taylor acquires said properties, he may charge to Plant and Equipment Accounts not more than \$2,700. The remainder of the purchase price should be charged to Proprietor's Account.

From the record before us it appears that the request for the authority sought is supported by the statements set forth in the application. A public hearing is not deemed necessary and the application will be granted.

The action taken herein shall not be construed to be a finding of value for any purpose.

P. A. Taylor is hereby 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

IT IS ORDERED:

(1) That S. B. Herrick and William L. Brooks are hereby authorized to sell and transfer to P. A. Taylor the operative rights and equipment referred to in the foregoing opinion and P. A. Taylor is authorized to purchase and acquire said rights and equipment and thereafter to operate thereunder. If P. A. Taylor pays for said operative rights and equipment more than \$2,700, he shall charge to Proprietor's Account the difference between the purchase price and said \$2,700.

(2) That applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing in triplicate, and concurrently making effective, appropriate tariffs and time tables within 60 days from the effective date hereof, and on not less than 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, this 13th day of September, 1944.

Richard Jackson

Francis D. Havener
Francis D. Havener

Irving D. Luce
COMMISSIONERS