

Decision No. 37840

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

IN THE MATTER OF THE APPLICATION OF Harry Marker as Administrator of the Estate of A. H. Marker, deceased, to sell, and Harry Marker to purchase an automobile freight line operated between San Diego and Tecate, California.

ORIGINAL

Application
No. 26676

BY THE COMMISSION:

OPINION AND ORDER

In this application, it is set forth that A. H. Marker, deceased, was the record owner of a certificate of public convenience and necessity, acquired by him under authority granted by Decision No. 27979, dated May 20, 1935, providing for the transportation of property by auto truck between San Diego and Tecate; that the beneficial interest in the auto truck line at all times was in Harry Marker, who had exclusive charge of the operation; that A. H. Marker now is deceased and that Harry Marker on April 16, 1945, was appointed administrator of the estate of A. H. Marker; and that Harry Marker, as administrator, proposes and requests authority to transfer the operative rights represented by the aforesaid certificate to himself as an individual, there being no consideration for the transfer.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary and that the request of applicant should be granted, as herein provided; therefore,

IT IS HEREBY ORDERED that Harry Marker, as administrator of the estate of A. H. Marker, deceased, be and he hereby is authorized to transfer the certificate of public convenience and necessity referred to herein, to Harry Marker, an individual, provided:

1. That applicant 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 sixty (60) days from the effective date hereof and on not less than one day's notice to the Commission and to the public; and,

2. That the authority herein granted will become effective upon the date hereof.

Harry Marker is hereby placed upon notice that "operative rights" 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 said 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 in the number of rights which may be given.

Dated at San Francisco, California, this 1st
day of ~~April~~^{May}, 1945.

Harold Anderson
Justice J. Cassen
Richard Kach
Franklin D. ...
... ..
Commissioners