

Decision No. 40560

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
K. K. ATKINSON to transfer and ARROW)
TRANSPORTATION SERVICE, a limited)
partnership composed of Lupe C. Aleman,)
general partner, and K. K. Atkinson,)
limited partner, to acquire an auto-)
motive freight line operated between)
Martinez, Crockett and Vallejo, on)
the one hand, and Benicia and Benicia)
Arsenal, on the other hand.)

Application No. 28580

O P I N I O N

Pursuant to the authority of Decision No. 37377, dated October 3, 1944, K. K. Atkinson has been conducting a highway common carrier service between Martinez, Crockett and Vallejo, on the one hand, and Benicia and Benicia Arsenal, on the other hand, limited -

- (a) To the transportation of shipments moving under the billing of Railway Express Agency, Incorporated, an express corporation, as an underlying carrier for the latter; and
- (b) To the transportation of baggage, and shipments of milk and cream or empty containers therefor, which have had or will have, in addition to the movement by applicant, a prior or a subsequent movement by rail.

The above entitled application states that K. K. Atkinson and Lupe C. Aleman have organized a limited partnership to which it is proposed that Atkinson will transfer the above described operative rights, one 1938 Ford one and one-half ton truck and a certain agreement dated May 7, 1945 between Railway Express Agency, Incorporated, and applicant Atkinson dealing with the transportation by the latter of the property of Railway Express

Agency, Incorporated. The proposed transfer is to be made pursuant to the terms of an agreement between the applicants, a copy of which is attached to the application and marked Exhibit "X". Under the terms of this agreement applicant Aleman will pay in cash the sum of \$1,250 to applicant Atkinson, upon the receipt of the approval of this Commission. Thereupon applicant Atkinson will transfer to the partnership the operative rights, equipment and contract above referred to.

The application states that service has been continually provided since the issuance of the certificate and that upon the transfer the rates, rules and regulations to be assessed and applied by the partnership will be the same as those presently assessed and applied by applicant Atkinson.⁽¹⁾

The Commission has considered applicants' request and believes that the application should be granted. No public hearing is necessary. The action taken herein shall not be construed to be a finding of the value of the operative rights herein authorized to be transferred.

K. K. Atkinson and Lupe C. Aleman are 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

(1) The operating revenues and expenses of the business are reported to be as follows:

	<u>Oct.-Dec.</u> <u>1944</u>	<u>1945</u>	<u>1946</u>	<u>Jan.-May</u> <u>1947</u>
Revenue	\$1,870.70	\$6,538.79	\$3,270.09	\$1,203.25
Expense	<u>978.76</u>	<u>4,418.94</u>	<u>3,267.61</u>	<u>964.76</u>
Profit	\$ 891.94	\$2,119.85	\$ 2.48	\$ 238.49

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

Application as above entitled having been filed, the Commission being fully advised in the premises and hereby finding that public convenience and necessity so require,

IT IS ORDERED:

(1) That K. K. Atkinson may, after the effective date hereof and on or before October 30, 1947, sell and transfer to the partnership of K. K. Atkinson and Lupe C. Aleman the operative rights and properties referred to in the foregoing opinion, and the latter may acquire and hereafter operate under said operative rights.

(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 one day's notice to the Commission and the public.

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

Dated at San Francisco, California, this 29th day of July, 1947.

Harold P. Hub
Justin F. Calver
John H. Powell

COMMISSIONERS