

Decision No. 42490

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WALLACE H. HIGGINBOTHAM and RICHARD)
O. RICHARDS, a copartnership, doing)
business as OROVILLE TRUCK AND)
STORAGE COMPANY, to sell, and of)
WALLACE H. HIGGINBOTHAM and JOHN W.)
HIGGINBOTHAM, a copartnership, to)
purchase equipment and operating)
right as a highway common carrier)
between Oroville and Oroville)
Junction, Butte County, California.)

Application No. 29984

O P I N I O N

Applicants Wallace H. Higginbotham and Richard O. Richards, partners, were authorized by Decision No. 41102, in Application No. 28954, to acquire a highway common carrier certificate permitting the transportation of commodities between Oroville and Oroville Junction, moving in the custody of Sacramento Northern Railway.

In the above entitled proceeding said applicants Wallace H. Higginbotham and Richard O. Richards request authority to transfer that operative right and certain physical properties to applicants Wallace H. Higginbotham and John W. Higginbotham for a cash consideration of \$20,000. No part of the consideration is assigned as value of the operative right. The physical properties consist of six motor trucks, four trailers, office furniture and fixtures, warehouse equipment, accounts receivable and miscellaneous equipment.

The transfer as proposed herein does not appear to be adverse to the public interest and the application will be granted. However, the action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred. No public hearing is necessary.

Wallace H. Higginbotham and John W. Higginbotham 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 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

An application therefor having been filed, the Commission being fully informed in the premises and good cause appearing,

IT IS ORDERED:

(1) That on or before April 1, 1949, Wallace H. Higginbotham and Richard C. Richards are hereby authorized to transfer to Wallace H. Higginbotham and John W. Higginbotham the operative rights and properties herein referred to in the foregoing opinion, and Wallace H. Higginbotham and John W. Higginbotham may acquire said operative rights and properties and thereafter conduct operations under said rights.

(2) That applicants shall comply with the provisions of General Orders Nos. 80 and 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.

(3) That within 30 days after the consummation of the transfer herein authorized, Wallace H. Higginbotham and John W.

Higginbotham shall notify the Commission in writing of that fact, and shall within said period file with the Commission a true copy of any bill of sale or other instrument of transfer which may have been executed to effect the transfer authorized.

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

Dated at San Francisco, California, this 8th day of February, 1949.

R. J. [Signature]
Justin F. [Signature]
James S. [Signature]
Harold [Signature]
Herbert Pottel
COMMISSIONERS