

Decision No. 12058

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of)
 JAMES G. SHAW and GILBERT R. BEARD,)
 doing business under the fictitious)
 name of the Service Motor Transporta-) Application No. 8971
 tion Company, to sell and transfer)
 certain of their operative rights)
 therein to A. C. WOODWARD, doing)
 business under the fictitious name of)
 the Oakland-San Jose Transportation Com-)
 pany.)

BY THE COMMISSION,

ORDER

In this proceeding James G. Shaw and Gilbert R. Beard, co-partners doing business under the fictitious name of Service Motor Transportation Company, have filed a joint application with A. C. Woodward, doing business under the fictitious name of Oakland-San Jose Transportation Company, in which they petition for an order of the Railroad Commission authorizing Shaw and Beard to sell and Woodward to purchase and operate a certain certificate of public convenience and necessity authorizing the operation of an automotive truck line as a common carrier of freight between San Jose and Hayward and Livermore and intermediate points.

Woodward is at the present time operating a truck line as a common carrier of freight between Oakland, San Jose and intermediate points and asks, in addition to the transfer, that the order authorize the consolidation of his existing right and the right proposed to be purchased.

The operative right herein proposed to be transfer-

red was obtained by the co-partners under Decision No. 7371 in Application No. 5272, dated April 5, 1920.

The consideration is given as the sum of \$300.00. There is no equipment involved in the transfer. Insofar as transfer of this operative right is concerned, we believe that this is a matter in which a public hearing is not necessary. The Commission, however, in authorizing the transfer cannot authorize operation jointly under the existing operative right of applicant Woodward and the right proposed to be purchased, in that by so doing, applicant Woodward would be obtaining, through transfer, a greater and more extended operative right than that originally granted by the Commission, in that he would then be permitted to handle direct shipments between Oakland, Livermore and intermediate points, an undertaking for which no showing has been made that public convenience and necessity require such a certificate. In authorizing the transfer it will be distinctly understood that the Commission in no way authorizes the linking up of these two operative rights, nor does the transfer, in any way, permit applicant Woodward to operate automotive freight transportation service in any manner different than that as heretofore carried on by him under his existing operative right and by the co-partners under the right herein authorized to be transferred.

IT IS HEREBY ORDERED that the above entitled application be, and the same hereby is granted, subject to the following conditions:

1. The consideration to be paid for the operative right herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing or any purpose other than the transfer herein authorized.

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2. Applicants Shaw and Beard, co-partners, shall immediately cancel tariff of rates and time schedules covering service, certificate for which is herein authorized to be transferred. Such cancellation to be in accordance with the provisions of General Order No. 51 of the Railroad Commission.

3. Applicant A. C. Woodward shall immediately file, in duplicate, tariff of rates and time schedules covering service, certificate for which is herein authorized to be transferred to him, or adopt as his own the tariff of rates and time schedules as filed by the co-partners Shaw and Beard. All tariff of rates and time schedules to be identical with those as filed by applicants Shaw and Beard.

4. The rights and privileges herein authorized to be transferred may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5. No vehicle may be operated by applicant Woodward unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 8th day of May, 1923.

C. Seavey
H. B. Brundage
Dwight Martin

Commissioners