

Decision No. 18865

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 O. W. TALBOT and L. J. SEELY to sell)
 and of Curtis G. Bender to purchase) Application No. 14020
 an undivided one-half interest in an)
 automobile stage line between Sacramento)
 and Plymouth, California.)

BY THE COMMISSION -

OPINION and ORDER

ORIGINAL

O. W. Talbot and L. J. Seely, co-partners, have applied for an order of the Railroad Commission authorizing L. J. Seely to sell and transfer to Curtis G. Bender his one-half interest in an operating right for an automobile service for the transportation of persons and property between Sacramento and Plymouth and intermediate points, and Curtis J. Bender has asked for authority to purchase and acquire said one-half interest and with Talbot as a partner to continue the operation of said automobile service, the sale and transfer to be in accordance with an agreement of sale marked Exhibit "A", which exhibit is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$600. Of this sum \$450 is said to represent the value of the equipment involved and \$150 is said to be the value of intangibles.

The operating right, a one-half interest in which is herein proposed to be transferred, was granted by the Railroad Commission in its Decision No. 6619, dated August 29, 1919, and issued on Application No. 4757, to O. W. Talbot and A. E. Ainsworth, co-partners, who were authorized to transport passengers, baggage and light freight (limit single unit 100 pounds) between Sacramento and Plymouth and intermediate points, the application for a certificate naming as intermediates Perkins, Walsh Station, Eagle Nest, Slough House, Bridge House, Consumne, Michigan Bar, Forest Home and Four Corners. With the approval of the Commission, as

shown in its Decision No.8454, dated December 20, 1920, and issued on Application No.6371, Ainsworth transferred his interest in the operating right to Louis Seely, one of the applicants herein. By Decision No.9853, dated December 3, 1921, and issued on Application No.7206, Talbot and Seely were authorized to operate between Sacramento and Plymouth via Central House.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

The purchaser is hereby placed upon notice that "Operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. 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. The Commission at the early stages of the development of this kind of transportation should be extremely careful not to lend encouragement to the idea that these rights possess a substantial element of value, either for rate fixing or capitalization.

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 property herein authorized to be performed 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.

2- Applicants Talbot and Seely, co-partners, shall immediately unite with applicants Talbot and Bender, co-partners, in common supplement to the tariffs on file with the Commission, applicants Talbot & Seely on the one hand withdrawing, and applicants Talbot & Bender on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Talbot & Seely shall immediately withdraw time schedules filed in their name with the Railroad Commission and applicants Talbot & Bender shall immediately file, in duplicate, in their own names, time schedules covering service heretofore given by applicants Talbot & Seely, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Talbot & Seely or time schedules satisfactory to the Railroad Commission.

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

5- No vehicle may be operated by applicants Talbot & Bender, unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 4th day of October, 1927.

Emmanuel
Chesney
Leon White
Frank
M. A. C.
COMMISSIONERS.