

Decision No. 18867

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 R. R. WILSON, and JAMES R. PROPER to
 purchase an automobile passenger line
 operated between Mojave and Randsburg
 and between Randsburg and Searles,
 California.)
)
) Application No. 14017
)
)

BY THE COMMISSION -

OPINION and ORDER**ORIGINAL**

R. R. Wilson has applied to the Railroad Commission for an order approving the sale and transfer by him to James R. Proper of operating rights for an automobile service for the transportation of persons and property between Randsburg and Mojave and between Randsburg and Searles, and James R. Proper has asked for authority to purchase and acquire said operating rights and to hereafter operate thereunder, 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 \$500. all of which sum, applicants declare, represents the value of intangibles, no equipment being involved.

The operating rights herein proposed to be transferred were established by Wm. H. Anderson in part through operation prior to May 1, 1917, and partly under authority of a certificate of public convenience and necessity granted by the Railroad Commission. The records of the Commission show that Anderson, prior to May 1, 1917, was operating an automotive stage line for the transportation of passengers, baggage and packages (the weight of the packages being limited to 200 pounds per single unit) between Randsburg, Johannesburg and Searles and intermediate points. By Decision

No.9108, dated June 14, 1921, and issued on Application No.6856, he was authorized to transport passengers only between Mojave, and Randsburg. No service to intermediate points between Mojave and Randsburg was authorized in Decision No.9108 and the inclusion of rates to Osdick and Atolia in the tariff filed by Anderson in compliance with the order in Decision No.9108 is, therefore, illegal. Through an inadvertence the tariff was accepted for filing by the Commission. By Decision No.15892, dated January 22, 1926, and issued on Application No.12397, the Commission authorized Anderson to transfer his operating rights to R.R.Wilson, one of the applicants herein.

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, with the understanding, however, that the order herein shall not be construed as authority to enlarge the operating right originally granted to Anderson by Decision No.9108 or the right established by him through operation prior to May 1, 1917.

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 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.

2- Applicant Wilson shall immediately withdraw tariffs filed in his name with the Railroad Commission and applicant Proper shall immediately file in his own name tariffs which shall be identical with tariffs filed by applicant Wilson save and except that said tariffs shall not show service and rates to points intermediate between Mojave and Randsburg or any points other than those shown in C.R.C. No.1 of Wm. H. Anderson and such points as Anderson was authorized to serve in Decision No.9108 of the Railroad Commission.

3- Applicant Wilson shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Proper shall immediately file in his own name time schedules which shall be 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 applicant Proper 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 4th day of October, 1927.

Edmund D.
C. Seaver
Leon Whitell
Thos. S. Kauter
M. J. Carr
COMMISSIONERS.