

Decision No. 18907

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 MORGENTHAUER and COYKENDALL, and of )  
 GUY C. COYKENDALL to purchase oper- ) Application No.14075  
 ative rights and equipment of the )  
 Belden-Chester Stage Line. )

BY THE COMMISSION -

OPINION and ORDER**ORIGINAL**

J. F. Morgenthauer and C. A. Coykendall, co-partners, have petitioned the Railroad Commission for an order approving the sale and transfer by them to Guy C. Coykendall of an operating right for an automotive service for the transportation of passengers and property between Belden and Chester, and Guy C. Coykendall has asked for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement of sale, the terms of which are set forth in the application herein.

The consideration to be paid for the property herein proposed to be transferred is given as \$690, which sum is declared by applicants to be the value of certain equipment and intangibles.

The operating right herein proposed to be transferred was granted to Morgenthauer and Coykendall, co-partners, by the Railroad Commission in its Decision No.17800, dated December 23, 1926, and issued on Application No.12879. In Decision No.17800 the Commission authorized operation of an

\*\*\*\*\*"automotive service for the transportation of passengers, freight and express as a common carrier between Chester, on the one hand, and the point where the present road of the U.S.Forestry Service extending north from Belden intersects the northern boundary of the land of the Pacific Gas and Electric Company at a point about three miles south of Longville, on the other hand, and intermediate points, including Belden, in connection with and as a part of a through service for the transportation of passengers, freight and express to Chester and Belden and intermediate points, said service to be seasonal, its operation to be governed by the opening of the roads in the spring time and the closing in the fall."

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 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- Applicants C.A.Coykendall and J.F.Morganthaler, co-partners, shall immediately unite with applicant Guy C. Coykendall in common supplement to the tariffs on file with the Commission, applicants C.A.Coykendall and J.F. Morganthaler on the one hand withdrawing, and applicant Guy C. Coykendall on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Coykendall and Morganthaler, co-partners, shall immediately withdraw time schedules filed in their names with the Railroad Commission and applicant Guy C. Coykendall shall immediately file, in duplicate, in his own name, time schedules covering service heretofore given by applicants Coykendall and Morganther, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Coykendall and Morganthaler, 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 applicant Guy C. Coykendall 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 8<sup>th</sup> day of October, 1927.

Frank J. ...  
Al ...

Thomas J. ...  
M. A. ...  
COMMISSIONERS.