

Decision No. 15699

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of G. E. SELBY to sell, and A. J. MASON and W. E. SPOON to buy passenger and baggage service between Highlands Inn and Monterey, California, and to discontinue service under Application No. 12064 between Monterey and Carmel-by-the-Sea.

ORIGINAL

Application No. 14175

BY THE COMMISSION -

OPINION and ORDER

In this proceeding G. E. Selby has petitioned for an order of the Railroad Commission approving the sale and transfer by him to A. J. Mason and W. E. Spoon, co-partners, of an operating right for an automotive service for the transportation of passengers and baggage between Monterey and Highlands Inn, via Carmel-by-the-Sea, (hereinafter referred to as Carmel), and A. J. Mason and W. E. Spoon, co-partners, ask for authority to purchase and acquire said operating right, to consolidate said right with the operating right authorizing auto stage service between Monterey and Carmel now owned by them, and to hereafter operate under said consolidated rights between Monterey and Highlands Inn, the service beyond Carmel to be seasonal and rendered either on through cars or by a stub service operated between Carmel and Highlands Inn. The sale and transfer is to be in accordance with an agreement of sale, a copy of which 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 the sum of \$3000, plus the balance not yet due on new engine for piece of equipment proposed to be transferred with said operating right.

The operating right herein proposed to be transferred was granted to G. E. Selby by the Railroad Commission in its Decision No. 15699, dated November 30, 1924, and issued on Application No. 12064.

In that decision the Commission declared that public convenience and necessity required the operation by G. E. Selby of

***an automobile stage line for the transportation of passengers and baggage between Monterey and Highlands Inn and intermediate points only between Highlands Inn and Carmel-by-the-Sea

subject to the condition that applicant Selby

***shall not transport passengers and baggage between Monterey and Carmel-by-the-Sea.

The condition hereinabove quoted was imposed because adequate service was given between Monterey and Carmel by Bay Rapid Transit Company, the line now being operated by the partnership of Mason & Spoon. Granting of the instant application will give to Mason & Spoon authority to extend their original service to points beyond Carmel, now served by Selby. Highlands Inn may become a year-round resort and in the event that it does, Bay Rapid Transit Company proposes to give it service during the period between October 15th and February 1st, to the extent of at least one round trip a day from Carmel, at which point connections will be made with its Monterey-Carmel line. The stub service from Carmel to Highlands Inn or through service from Monterey to Highlands Inn will be maintained as traffic demands. This arrangement should make for more economical, adequate and efficient service than is now being given by two separate lines.

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. It must be understood, however, that in authorizing the operation of a stub service between Carmel and Highlands Inn the Commission is not granting a separate operating right between Carmel and Highlands Inn but is simply authorizing a service to be performed under the consolidated operating rights of Mason & Spoon.

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 G. E. Selby shall immediately unite with applicants A. J. Mason and W. E. Spoon, co-partners, in common supplement to the tariffs on file with the Commission, applicant Selby on the one hand withdrawing, and applicants Mason and Spoon on the other hand accepting and establishing such tariffs and all effective supplements thereto.
- 3- Applicant Selby shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicants Mason and Spoon shall immediately file, in duplicate, in their own names, time schedules covering service heretofore given by applicant Selby, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Selby, 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 Mason & Spoon 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.

6- This order shall not become effective until there has been paid to the Railroad Commission the fee required by the Public Utilities Act to be paid on all evidences of indebtedness extending over a period of one year, in this instance the minimum fee of \$25.00.

Dated at San Francisco, California, this 2nd day of ^{December} November, 1927.

Ernest
C. Seaver
Leon Whipple
Irvin D. Dettler
M. J. Fair
COMMISSIONERS.

Fee \$ 25 ⁰⁰/₁₀₀
RAILROAD COMMISSION
STATE OF CALIFORNIA
DEC 6 1927
By H. M. ...
SECRETARY
Fee \$ 25 ⁰⁰/₁₀₀