

Decision No. 19094

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 C. W. GORDON, Administrator of the)
 Estate of Mark W. Gordon, deceased,)
 to sell, and HURB SESNA and T.W.SESNA) Application
 to purchase an automobile passenger) No.14194
 and freight line operated between)
 Fortuna and Bridgeville, California.)

BY THE COMMISSION -

OPINION and ORDER

C. W. Gordon, Administrator of the Estate of Mark W. Gordon, deceased, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Hurb Sesna and T.W.Sesna of an operating right for the transportation of passengers and property between Fortuna and Bridgeville and intermediate points owned by the estate of said Mark W. Gordon, and Hurb Sesna and T.W.Sesna have applied 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, 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 \$150, which sum is declared to be the value of intangibles, no equipment being involved. This amount, according to an order issued by the Superior Court of the County of Humboldt confirming sale of said property by said C.W. Gordon as Administrator of the estate of Mark W. Gordon, a copy of said order being attached to the application herein, is the sum received by said Administrator from said Hurb Sesna and T.W.Sesna for the property herein proposed to be transferred.

The operating right herein proposed to be transferred was issued to Mark W. Gordon on October 1, 1925, the Railroad Commission, by its Decision No.15475 on Application No.10592, granting to said Mark W. Gordon a certificate of public convenience and necessity to operate an automotive stage and truck service

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***** for the transportation of passengers, baggage, express and freight between Fortuna and Bridgeville and intermediate points over the route via Fortuna, Rohnerville, Hydesville, Carlotta, American Tank Co., Riverside, Vann's Camp, Strong's Station, Duhn's Camp, Rogers' Resort, Maple Grove Resort and Bridgeville.

Mark W. Gordon operated the service for which the above described certificate was granted up to December 11, 1925, when he died, intestate, and his brother, C. W. Gordon, one of the applicants herein, was appointed Administrator of his estate.

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 purchasers are 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 C. W. Gordon, as Administrator of the estate of Mark W. Gordon, shall immediately unite with applicants Hurb Sesna and T.W.Sesna in common supplement to the tariffs on file with the Commission, applicant C.W.Gordon as Administrator of the estate of Mark W. Gordon on the one hand withdrawing, and applicants Hurb Sesna and T.W.Sesna on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant C. W. Gordon, as Administrator of the estate of Mark W. Gordon, shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicants Hurb and T. W. Sesna shall immediately file, in duplicate, in their own names, time schedules covering service heretofore given by Mark W. Gordon, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of Mark W. Gordon, 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 Hurb and T.W.Sesna 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 2nd
December
day of ~~November~~, 1927.

Ernest L. Smith
W. J. Lewis
Leon Whitwell
W. J. Lewis
W. J. Lewis
COMMISSIONERS.