

Decision No. 19195

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 M. K. DAVIS to sell, and the McCLOUD
 RIVER RAILROAD COMPANY, a corporation,
 to purchase the franchise and right of
 said M.K. DAVIS to operate an auto
 stage line between Mt. Shasta and
 Mc Cloud, California, and authorizing
 said M.K. DAVIS to retire from the
 business of operating said line and
 authorizing the McCLOUD RIVER RAILROAD
 COMPANY to operate the same.

ORIGINAL

APPLICATION NO. 14273

BY THE COMMISSION -

OPINION and ORDER

(Mrs.) M. K. Davis has applied to the Railroad Commission for an order approving the sale and transfer by her to Mc Cloud River Railroad Company, a corporation, of an operating right for an automotive service for the transportation of passengers and baggage between Sisson (now Mt. Shasta) and Mc Cloud, and McCloud River Railroad Company 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 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 \$4000, which sum is named as the value of certain equipment and intangibles.

The operating right herein proposed to be transferred was established by J. T. B. Davis through operation prior to May 1, 1917, and the filing of tariffs and time schedules showing service for the transportation of passengers and baggage between Sisson (now Mt. Shasta) and Mc Cloud, no intermediate points being served or shown. C.R.C. No. 1 filed by J.T.B. Davis does not show any freight or express service, but does show a rate for baggage

in excess of 50 pounds. The operating right herein sought to be transferred, then, is a right for the transportation of passengers and baggage only. In Decision No. 10374, dated April 27, 1922, and issued on Application No. 7733, the Railroad Commission approved the transfer of the operating right to (Mrs.) M. K. Davis, 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.

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 M.K. Davis shall immediately unite with applicant Mc Cloud River Railroad Company in common supplement to the tariffs on file with the Commission, applicant M. K. Davis on the one hand withdrawing, and applicant Mc Cloud River Railroad Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Davis shall immediately withdraw time schedules filed in her name with the Railroad Commission and applicant Mc Cloud River Railroad Company shall immediately file, in duplicate, in its own name, time schedules covering service heretofore given by applicant Davis, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Davis, 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 Mc Cloud River Railroad Company unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 27th day of December, 1927.

Ernest A. Casany
Leon A. Whittell
Thos. D. Bennett
M. J. Cunn
COMMISSIONERS.