

Decision No. 19277**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of)	
G. L. MORRISON to sell, and)	
C. R. STEWART to buy Dunsmuir-)	Application No. 14205
Weed Stage Line.)	

BY THE COMMISSION -

OPINION and ORDER

G. L. Morrison has petitioned the Railroad Commission for an order approving the sale and transfer by him to C. R. Stewart of an operating right for an automotive service for the transportation of passengers between Dunsmuir and Weed, and C.R. Stewart 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 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 \$2500, all of which sum is declared by applicants to be the value of intangibles, no equipment being involved.

The operating right herein proposed to be transferred was originally issued by the Railroad Commission to V.H. Norris, the Commission in its Decision No. 7435, dated April 15, 1920, and issued on Application No. 5430, authorizing Norris to operate "an automobile passenger stage service between Dunsmuir and Weed." Attached as exhibits to Application No. 5430 and made a part thereof were tariffs and time schedules showing service to the intermediate points of Sisson (now the town of Mt. Shasta), Shasta Springs and Big Springs. In a letter to the Commission (dated May 7, 1920, file 316-2), regarding the matter of tariff filings in compliance with the Commission's order in Decision No. 7435 Norris advised that it was

not his intention to serve Shasta Springs or Big Springs and in the tariff required to be filed (C.R.C. No.17) he showed service only between Dunsmuir, Sisson (now Mt. Shasta) and Weed. Without first having obtained formal authority he published rates for excess baggage and packages. The package rates were subsequently eliminated by C.R.C. No.3 but the excess baggage rate was not. C. R. C. No.3 was adopted by G. L. Morrison to whom Norris, with the approval of the Railroad Commission, as shown by Decision No.13528, dated May 7, 1924, and issued on Application No.10030, sold and transferred the operating right herein described. Subsequently Mrs. M. K. Davis, now operating the line under lease, as approved by the Commission in Decision No.16995, dated June 25, 1926, and issued on Application No.12955, in her own name, filed with the Commission C.R.C. No.1 showing service between "Dunsmuir and Weed and intermediate points," and an excess baggage rate of 1 cent a pound.

The record shows that the only intermediate point authorized to be served under the operating right heretofore granted to Norris and sold by him to Morrison, one of the applicants herein, is the town of Sisson (now Mt. Shasta). The operating right herein proposed to be transferred will, in view of this record, be considered as a right for the transportation of passengers only between Dunsmuir and Weed and the intermediate point of Sisson now known as Mt. Shasta.

Transfer of the operating right, as herein proposed, is not intended to disturb, the applicants declare, the leasing arrangement heretofore entered into by applicant Morrison and Mrs. M.K.Davis, the lease of the operating right to Mrs. Davis covering a period of three years from June 20, 1926, to June 20, 1929.

Pickwick Stages System protested the granting of this application, but subsequently advised that it would not appear at the public hearing in the matter. In the light of such withdrawal we are of the opinion that this is a matter in which a public hearing is not now necessary and that the application should be granted, with the understanding, however, that the operating right herein authorized to be transferred authorizes only a passenger stage service with no right to serve any intermediate point but Sisson (Mt. Shasta) and covers no right to transport property or to publish an excess baggage rate.

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.L.Morrison shall immediately unite with applicant C.R.Stewart in common supplement to the tariffs on file with the Commission, applicant Morrison on the one hand withdrawing, and applicant Stewart on the otherhand accepting and establishing such tariffs and all effective supplements thereto, with the provision that said adoption shall be based on the operating right as described in the opinion preceding this order.

3- Applicant Morrison shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Stewart shall immediately file, in duplicate, in her own name, time schedules covering service heretofore given by applicant Morrison, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Morrison, or time schedules satisfactory to the Railroad Commission.

4- The rights and privileges herein authorized may not be sold, leased, transferred 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 Stewart unless such vehicle is owned by said applicant or is leased by her under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 23rd day of
January, 1928.

Leon Whisell
C. Stewart
Edmund Beards
John Stewart
M. J. Cline
COMMISSIONERS.