

Decision No. 7435

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
C. R. STEWART to sell and SOUTHERN	)	Application No. 14292
PACIFIC MOTOR TRANSPORT COMPANY to	)	
buy the Dunsmuir-Weed Stage Line.	)	

BY THE COMMISSION -

OPINION AND ORDER**ORIGINAL**

C. R. Stewart has petitioned the Railroad Commission for an order approving the sale and transfer by her to Southern Pacific Motor Transport Company, a corporation, of an operating right for an automotive service for the transportation of passengers between Dunsmuir and Weed, and Southern Pacific Motor Transport Company, a corporation, 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.1) 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 thus shows that the only intermediate point authorized to be served under the operating right granted to Norris and sold by him to Morrison and by the latter to C.R.Stewart (see Decision No. 19277), dated January 23,1928, and issued on Application No.14205), and which is herein proposed to be transferred to Southern Pacific Motor Transport Company, is the town of Sisson (now Mt. Shasta). The operating right involved, in view of this record, is a right for the transportation of passengers only between Dunsmuir and Weed and the intermediate point of Sisson, now known as Shasta.

Transfer of the operating right, as herein proposed, is not intended to disturb, the applicants declare, the leasing arrangement heretofore entered into by Morrison and subsequently by C.R.Stewart 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.

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, 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 C.R. Stewart shall immediately unite with applicant Southern Pacific Motor Transport Company in common supplement to the tariffs on file with the Commission, applicant Stewart on the one hand withdrawing, and applicant Southern Pacific Motor Transport Company on the other hand 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 Stewart shall immediately withdraw time schedules filed in her name with the Railroad Commission and applicant Southern Pacific Motor Transport Company shall immediately file, in duplicate, in its own name, time schedules covering service heretofore given by applicant Stewart, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Stewart, 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 Southern Pacific Motor Transport 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 23<sup>rd</sup> day of  
January, 1928.

Leon Whitehall

Albion

Emory J. Cook

Paul S. Carter

W. J. Carr  
COMMISSIONERS.