

Decision No. 19516

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of  
EMMA D. DUNHAM, Administratrix of the  
Estate of Azariah Dunham, deceased,  
to transfer to Emma D. Dunham, according  
to Decree No. 9389, dated 30th day of  
January, 1928, of the Superior Court  
of Sonoma County; an automobile passenger  
line operate between Sacramento and  
Jackson, California, and intermediate  
points, via Elk Grove, Stockton Junction,  
Clay and Lone, California, and an automobile  
passenger line operated between Jackson  
and Plymouth, California.

**ORIGINAL**Application  
No. 14483

BY THE COMMISSION -

OPINION and ORDER

Emma D. Dunham, widow of Azariah Dunham, deceased, and administratrix of the estate of said Azariah Dunham, has petitioned the Railroad Commission for an order approving the inheritance by her of operating rights for the transportation of persons and property between Sacramento and Jackson and certain intermediate points, between Lone and Damsite, and between Jackson and Plymouth; also for an order of the Commission approving the transfer of said operating rights by Emma D. Dunham, administratrix of the estate of Azariah Dunham, to Emma D. Dunham, widow of Azariah Dunham. Attached to the application herein and made a part thereof is a decree of the Superior Court of the County of Sonoma settling the final account of said Emma D. Dunham, as administratrix of the estate of Azariah Dunham, and distributing the said estate to Emma D. Dunham, his widow.

The operating rights herein proposed to be transferred, and which were inherited by Mrs. Dunham, are as follows:

Decision 14004, dated August 30, 1924, and issued on Application No.9705. A. Dunham authorized to operate automobile stage line as a common carrier of passengers between Sacramento and Jackson and intermediate points via Elk Grove, Stockton Junction, serving Herald, Clay, Carbondale, Ione and Martell, this right to be in lieu of and not in addition to Dunham's existing rights between Sacramento and Ione. Express right specifically denied.

Decision 14286, dated November 25, 1924, and issued on Application No.10594 - A. Dunham acquires from J.J.Ratto operating right for automotive service for transportation of passengers and express (express limit 100 pounds) between Jackson and Plymouth and intermediate points, operation to be maintained as a separate and distinct operation from the Dunham operation between Sacramento and Jackson, no authority to link up or join the two rights being granted. This right was originally established by M. H. Mc Garry (see Application 5162) and by him transferred to J.J.Ratto (see Application 6400).

Decision 15373, dated September 4, 1923, and issued on Application No.11662 - A. Dunham authorized to operate as an extension of right granted by Decision No.14004. (Sacramento-Jackson passenger service between Ione and a point on the Mokelumne River referred to as Damsite. On December 1, 1925, (see Application 11662), Dunham was authorized to suspend for winter months scheduled service to Damsite provided all traffic offering for Damsite was cared for.

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.

Emma D. Dunham 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.

IT IS HEREBY ORDERED that the inheritance by Emma D. Dunham of operating right, as described herein, for an automotive passenger service heretofore granted by the Railroad Commission to A. Dunham, deceased, be and the same is hereby approved, and

IT IS HEREBY FURTHER ORDERED that the application of Emma D. Dunham, administratrix of the estate of A. Dunham, deceased, for an

order of the Railroad Commission approving the transfer by her as administratrix of said estate to Emma D. Dunham, widow of said A. Dunham, be and the same is hereby 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 Emma D. Dunham, administratrix of the estate of A. Dunham, shall immediately unite with applicant Emma D. Dunham in common supplement to the tariffs on file with the Commission, applicant Emma D. Dunham, as said administratrix, on the one hand withdrawing, and applicant Emma D. Dunham on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Emma D. Dunham, administratrix of the estate of A. Dunham, shall immediately withdraw time schedules filed in her name with the Railroad Commission and applicant Emma D. Dunham shall immediately file, in duplicate, in her own name time schedules covering service heretofore given by applicant Emma D. Dunham, as administratrix of the estate of A. Dunham, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Emma D. Dunham, administratrix of the estate of A. Dunham, whose 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 Emma D. Dunham 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 22nd day of March, 1928.

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C. Deane  
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Emma D. Dunham  
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H. B. ...  
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M. J. ...  
COMMISSIONERS.