

Decision No. 10740**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 VANDERHURST & DUDA to sell, and
 TASSAJARA HOT SPRINGS COMPANY, a corporation,
 to purchase an automobile (passenger and
 freight line) operated between Salinas, and
 Tassajara Hot Springs, California.

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)
) Application
) No. 14596
)

BY THE COMMISSION -

OPINION and ORDER

J. K. Vanderhurst and E. K. Duda, co-partners, have applied to the Railroad Commission for an order approving the sale and transfer by them to Tassajara Hot Springs Company, a corporation, of an operating right for an automotive service for the transportation of passengers and property between Salinas and Tassajara Hot Springs and Tassajara Hot Springs 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, 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 \$500, all of which sum is said to represent the value of equipment.

The operating right herein proposed to be transferred was granted to J. K. Vanderhurst and E. K. Duda by Railroad Commission Decision No. 13044, dated January 15, 1924, and issued on Application No. 9677. Decision No. 13044 authorizes the establishment of an automotive service for the transportation of passengers, baggage and express between Salinas and Tassajara Hot Springs during the summer season of each year when the Springs are open. While there is no direct grant for authority to serve intermediate points, it would appear from the tariff submitted with the application and from the application itself that applicants proposed to serve the

intermediate point of Jamesburg, which point is shown in the tariff, a duplicate of which applicants were ordered to file. The operating right herein authorized to be transferred, then, authorizes service to Jamesburg and no other intermediate point.

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.

Tassajara Hot Springs Company, a corporation, 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 above entitled application 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. Applicants Vanderhurst and Duda shall immediately unite with applicant Tassajara Hot Springs Company, in common supplement to the tariffs on file with the commission, applicants Vanderhurst and Duda on the one hand withdrawing, and applicant Tassajara Hot Spring Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants Vanderhurst and Duda shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicant Tassajara Hot Springs Company shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicants Vanderhurst and Duda, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Vanderhurst and Duda, 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 Tascajara Hot Springs 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 9th day of May,
1928.

Leon Whittall

Clarence

Emerson

Paul D. ...

COMMISSIONERS.