

Decision No. 20 446.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
L.B. O'Rourke and C.H. O'Rourke to
purchase the operative rights of
an automobile passenger and freight
line operating between Quincy,
California and La Porte, California. }
Application No. 14907. }

BY THE COMMISSION:-

OPINION AND ORDER

ORIGINAL

L.B. O'Rourke has petitioned for an order of the Railroad Commission approving the sale and transfer by him to C.H. O'Rourke of an operating right for an automotive service for the transportation of passengers and freight between Quincy and La Porte and certain intermediate points, and C.H. O'Rourke has applied 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 the terms of which are set forth in the application herein.

The consideration to be paid for the property herein proposed to be transferred is the nominal sum of \$1.00.

The operating right herein proposed to be transferred was granted to L.B. O'Rourke by the Railroad Commission in its Decision No. 10307, dated April 12, 1922 and issued on Application No. 7722. The right authorizes the operation of an automotive service for the transportation of passengers and freight

"between Quincy and La Porte, serving as intermediate points Gibsonville, Onion Valley and Nelson Point."

Applicant L.B. O'Rourke is also the owner of an operating right for an automotive service between Elairsden and Johnsville, which right, however, is not involved in this proceeding.

Applicant C.H. O'Rourke has a contract to transport United States mail between Quincy and La Porte. He will provide

his own equipment and, under the authority herein granted, proposes to carry passengers and freight in connection with his mail service.

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.

C.H. O'Rourke 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- Applicant L.B. O'Rourke shall immediately unite with applicant C.H. O'Rourke in common supplement to the tariffs on file with the Commission, applicant L.B. O'Rourke on the one hand withdrawing tariffs covering rates between Quincy and La Porte and intermediate points, and applicant C.H. O'Rourke on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant L.B. O'Rourke shall immediately withdraw time schedules covering said Quincy-La Porte service filed in his name with the Railroad Commission and applicant C.H. O'Rourke shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant L.B. O'Rourke which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant L.B. O'Rourke 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 C.H. O'Rourke unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this

15th day of August, 1928.

Leon Whitall

Chas. J. ...

Paul ...

W. J. ...
COMMISSIONERS.