

Decision No. 20360

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
HARRY KISER to sell, and J. A. THOMPSON	)	Application
to purchase an automobile (passenger)	)	
stage line operated between Tustin and	)	No. 15123
Santa Ana, California.	)	

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

Harry Kiser has applied to the Railroad Commission for an order approving the sale and transfer by him to J. A. Thompson of an operating right for an automotive passenger stage service between Tustin and Santa Ana, and J. A. Thompson 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 marked Exhibit "A", 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 \$4000. Of this sum \$3400 is said to be the value of certain equipment and \$600 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was granted to Foster & Prather by the Railroad Commission in its Decision No. 5413, dated May 21, 1918, and issued on Application No. 3522. Said Decision authorizes the operation of an automotive passenger stage service between Santa Ana and Tustin. No authority to serve intermediate points was granted. By Decision No. 19942, dated June 29, 1928, and issued on Application No. 14726, the Commission authorized Foster & Prather to transfer the right to applicant Kiser. By Decision No. 20360, dated October 20, 1928, the Commission authorized Kiser to re-route his stages and to operate over and along the following route:

Leaving the Motor Transit Depot at Third & Spurgeon Streets, Santa Ana, California, going West on Third Street to Bush Street, North on Bush Street to Fourth Street, East on Fourth Street to Wright Street, South on Wright Street to First Street, East on First Street to "D" Street, Tustin, California, South on "D" Street to the Tustin Cafe at Main & "D" Streets, Tustin, California, returning on the same route.

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. J. A. Thompson 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 Kiser shall immediately unite with applicant Thompson in common supplement to the tariffs on file with the Commission, applicant Kiser on the one hand withdrawing, and applicant Thompson on the other hand accepting and establishing such tariffs and all effective supplements thereto.
- 3- Applicant Kiser shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicant Thompson shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Kiser, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Kiser, 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 Kiser 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 13<sup>th</sup> day of November, 1928.

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*C. Searcy*  
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*Emmerson*  
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*Paul D. Lott*  
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*W. A. Gu*  
COMMISSIONERS.