

Decision No. 29530

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of  
 JAMES T. AGAJANIAN and E. BAHLER to  
 sell and purchase automobile freight  
 lines operating between points in  
 Riverside and San Bernardino Counties  
 to Los Angeles and to San Bernardino.

)  
 )  
 ) Application  
 ) No. 15210  
 )

**ORIGINAL**

BY THE COMMISSION -

OPINION and ORDER

James T. Agajanian has petitioned the Railroad Commission for an order authorizing him to sell and transfer to E. Bahler an operating right for an automotive service for the transportation of property between Arlington, Riverside and Corona districts, and El Monte and Los Angeles and between the same districts and San Bernardino, and E. Bahler 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 \$6000. Of this sum \$3500 is declared by applicant to be the value of certain equipment and \$2500 is said to represent the value of intangibles.

The operating right herein proposed to be transferred was, in part, originally granted by the Railroad Commission to Ray A. Anderson. In Decision No. 15774, dated December 21, 1925, the Commission authorized Anderson to operate an auto trucking service for the transportation of

\*\*\*\*\* milk, cream and dairy products between Arlington, Corona, Chino, Pomona, Riverside, Colton, Wineville, Ontario and Nard, and Los Angeles and El Monte, and for the return transportation of articles and commodities necessary for the business of dairying, and consigned only to dairymen shipping from the above mentioned points over applicant's service to El Monte or Los Angeles,

including feed, dairy supplies, acetylene tanks, ammonia vats, utensils and machinery used exclusively in the business of dairying - and for no other service, using the Valley Boulevard between Pomona and Los Angeles, and provided that no pick-up be made west of Corona Road and Central Avenue or within one-quarter of a mile of Narod; and provided further, that applicant shall deliver consignments free in Los Angeles in the zone bounded by First Street, Santa Fe Avenue, Slauson Avenue and Western Avenue - over and along the following routes:

Route 1: From ranches in the vicinity of Arlington, west to Corona, via Corona-Chino Road and Central Avenue to Chino; Philadelphia Street and Geary to Pomona, thence via Valley Boulevard to Los Angeles.

Route 2: From ranches in the vicinity of Arlington via Magnolia Avenue to Riverside, west via Valley Boulevard to Crestmore Road north approximately 5 miles to dairy ranches near Colton, west to Valley Boulevard near Wineville, side trip on Pedley Road, and Valley Boulevard to Pomona, connecting with Route 1 to El Monte and Los Angeles.

The following is from the opinion accompanying the order in Decision No.15774:

Applicant proposes to confine his deliveries in Los Angeles to a zone bounded on the north by First Street, on the east by Santa Fe Avenue, on the south by Slauson Avenue and on the west by Western Avenue, and offers service to no larger area in the city of Los Angeles. He also stipulated that he would make no pick-up west of Corona Road and Central Avenue, and no pick-up within one-quarter of a mile of Narod. Upon this stipulation protests were withdrawn.

By Decision No.13881, dated October 4, 1927, and issued on Application No.13904, Anderson was authorized to transfer the right granted by Decision No.15774 to applicant Agajanian. By Decision No.19586, dated April 12, 1928, and issued on Application No.14262 Agajanian was authorized to transport milk between Riverside, Arlington and Colton and San Bernardino over and along the following route:

Commencing at corner of Mc Kinley Street and Magnolia Ave., Riverside, on route now operated; thence east on Magnolia to Market St., north on Market to First St., east on First St., to La Cadena Drive, north on La Cadena Drive to Colton and Eighth St., north on Eighth to F St., and east to Tenth St., thence via Tenth St., Colton Ave., E. Street and Third Street to San Bernardino, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, issued as an extension and enlargement of applicant's present service between Los Angeles, Riverside and Arlington, \*\*.

The Commission, in Decision No.19586, authorized the service "as proposed" thus, in effect, authorizing service to ranches within three miles of the route traversed. Applicant proposed to haul milk only and rates for no other commodities were shown in his application. Decision No.19586 also contained the following provision:

Applicant shall file with this Commission, within a period of not to exceed ten (10) days from date hereof, his written acceptance of the certificate herein granted as an extension and enlargement of his present operative rights, and not as a new or separate right.

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 no authority is herein conveyed for applicant Bahler to link up or join the right herein transferred with rights now owned by him.

E. Bahler 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 Agajanian shall immediately unite with applicant Bahler in common supplement to the tariff on file with the Commission, applicant Agajanian on the one hand withdrawing, and applicant Bahler on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Agajanian shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Bahler shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Agajanian which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Agajanian 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 Bahler 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 30th day of

November, 1928.

Leon Whalley

Edmund

W. J. Carr  
COMMISSIONERS.