

Decision No. 20568

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 EMMA D. DUNHAM to sell, and ALBERT L.
 SCHNEIDER, OSCAR SCHNEIDER, FRANK SCHNEIDER
 and WALTER SCHNEIDER to purchase an auto
 stage line operated for the transportation
 of passengers and baggage, for compensation,
 between Sacramento and Jackson, California,
 and intermediate points, and between Ione,
 California, and a point on the Mokelumne
 River known as Damsite; and an auto stage
 line operated for the transportation of
 passengers, baggage and express, for compen-
 sation, between Jackson and Plymouth, California,
 and intermediate points.

ORIGINAL

Application
No. 15239

BY THE COMMISSION -

OPINION and ORDER

Emma D. Dunham has applied to the Railroad Commission for an order approving the sale and transfer by her to Albert L. Schneider, Oscar Schneider, Frank Schneider and Walter Schneider of operating rights for an automotive service for the transportation of persons and property between Sacramento and Jackson, and between Ione and Damsite, and Albert L. Schneider, Oscar Schneider, Frank Schneider and Walter Schneider have asked for authority to purchase and acquire said operating rights and to hereafter operate thereunder as co-partners, 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 \$27,500, which sum is declared by applicants to be the fair value of the equipment and the property herein proposed to be transferred.

The present operating rights of the Dunham Stage Lines owned and operated by Mrs. Emma D. Dunham, and which are proposed to be transferred, were established as follows:

In Decision No.14004, dated August 30, 1924, on Application No.9705, A. Dunham was authorized to operate an automotive stage line, as a common carrier of passengers only, between Sacramento and Jackson and intermediate points via Elk Grove, Stockton Junction, serving Herald, Ione and Martell with provision that such operative right as authorized was to be in lieu of and not in addition to Dunham's existing operative right between Sacramento and Ione. Dunham's application for authority to render an express service was denied. (The right which the foregoing was issued in lieu of was acquired by Dunham from A.F.Burgin by Decision No.11548, dated January 24, 1923, on Application No.8570, having been granted to Burgin by Decision No.10686, dated July 10, 1922, on Application No.7542.

In Decision No.14286, dated November 25, 1924, on Application No.10594, A. Dunham was authorized to acquire from J. J. Ratto an automotive operative right for the transportation of passengers and express (express limit 100 pounds) between Jackson and Plymouth and intermediate points. No authority was granted to link or join this operating right with the one granted in Application No.9705. The Ratto operative right was originally established by the Star Auto Stage Association by reason of its operation on May 1, 1917, from Jackson to Plymouth via the County Road in accordance with its tariffs and schedules filed with the Railroad Commission effective March 1, 1917. M. E. Mc Gary was authorized by Decision No.7795, dated June 24, 1920, on Application No.5162 to acquire such right from the Star Auto Stage Association. By Decision No.8515, dated January 4, 1921, on Application No.6400, Mc Gary was authorized to transfer this operating right to J.J.Ratto.

In Decision No.15373, dated September 4, 1925, on Application No.11662, A. Dunham was granted authority for the operation of an automotive passenger service between Ione and Damsite of the East Bay Utility District on the Mokelumne River, a point approximately six miles from Ione, the service to be operated as an extension of the operating right between Sacramento and Jackson authorized by Decision No.14004 on Application No.9705. On December 1, 1925, Dunham was authorized by letter, file Application No.11662, to suspend for the winter months the scheduled service to Damsite with the provision that such traffic as may be offered to Damsite was to be cared for.

By Decision No.19516, dated March 22, 1928, on Application No.14488, Emma D. Dunham the widow of, and the Administratrix of the Estate of Azariah Dunham, deceased, was authorized to acquire by inheritance the hereinabove described operative rights.

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We are of the opinion that this is/matter in which a public hearing is not necessary and that the application should be granted.

Albert L., Oscar, Frank and Walter Schneider are 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 rates fixing, or any purpose other than the transfer herein authorized.

2- Applicant Emma D. Dunham shall immediately unite with applicants Albert L., Oscar, Frank and Walter Schneider in common supplement to the tariffs on file with the Commission, applicant Emma D. Dunham on the one hand with - drawing, and applicants Albert L., Oscar, Frank and Walter Schneider on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Emma D. Dunham shall immediately withdraw time schedules filed in her name with the Railroad Commission and applicants Albert L., Oscar, Frank and Walter Schneider shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicant Emma D. Dunham, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Dunham, 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 applicants Albert L., Oscar, Frank and Walter Schneider unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

6- This order shall not be construed as authorizing Albert L., Oscar, Frank and Walter Schneider to link up, merge or consolidate the rights herein transferred with other rights owned by them.

Dated at San Francisco, California, this 7th day of

December, 1928.

Leon Whitehill
D. L. ...
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COMMISSIONERS.