Decision No. 20710

BEFORE THE RATIROAD COLLISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of JAMES R. PROPER to lease to CHARLES A. LINDSAY, with option to purchase sitomobile passenger and express transportation stage line operated between Randsburg, Johannesburg and Searles, California.

Application No.15188

BA THE COUSTRES ION -

OPINION and ORDER

James R. Proper, in an amended application, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Charles A. Lindsay of an operating right for the transportation of persons and property between Randsburg, Johannesburg and Searles, and Charles A. Lindsay 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 of sale, a copy of which marked Exhibit "B", is attached to the amended application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$500, no equipment being involved.

The operating right herein proposed to be transferred was acquired by applicantsProper from R. R. Wilson (Decision No.18867, dated October 4, 1927, and issued on Application No.14017), Wilson having acquired it from W.H.Anderson, the Commission approving the transfer by Decision No.15892, dated January 22, 1926, and issued on Application No.12397. Anderson established the right through operation prior to May 1, 1917, and the filling of tariffs and time schedules in accordance with the requirements of the Railroad Commission. C.R.C. No.1 filed by Anderson shows a service for the transportation of passengers, trunks, packages and

excess baggage between Randsburg, Johannesburg and Searles, service to points intermediate thereto not being indicated. C.R.C. No.1 filed by Anderson shows the following notation: "No packages or shipment weighing over 200 pounds will be handled by passenger automobile." 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. Charles A. Lindsay 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. Applicant James R. Proper shall immediately unite with applicant Charles A. Lindsay in common supplement to the tariffs on file with the Commission covering service between the points affected by the order herein, applicant Proper on the one hand withdrawing, and applicant Lindsay on the other hand accepting and establishing such tariffs and all effective supplements thereto. Applicant Proper shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Lindsay shall immediately file, in duplicate, in his own name time schedules covering services heretofore given by applicant Proper as described herein, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Proper, or time schedules satisfactory to the Railroad Commission. -24- 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 Lindsay 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 20 1/2 day of January, 1929.

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