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Decision No. 29737

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
CURTIS G. BENDER and TONEY COREY to sell  
and of OSCAR SCHNEIDER, ALBERT SCHNEIDER,  
WALTER SCHNEIDER and FRANK SCHNEIDER,  
operating as SCHNEIDER BROS., to purchase  
the automobile stage line between  
Sacramento and Plymouth, California. )  
Application  
No. 15354

BY THE COMMISSION -

OPINION and ORDER

Curtis G. Bender and Toney Corey have petitioned the Railroad Commission for an order approving the sale and transfer by them to Oscar Schneider, Albert Schneider, Walter Schneider and Frank Schneider of an operating right for an automotive service for the transportation of passengers and property between Sacramento and Plymouth and intermediate points, and Oscar Schneider, Albert Schneider, Walter Schneider and Frank Schneider have petitioned 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 \$2500. Of this sum \$2000 is declared to be the value of equipment and \$500 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was granted by the Railroad Commission in its Decision No. 6619, dated August 29, 1919, and issued on Application No. 4757, to O.W. Talbot and A.E. Ainsworth, co-partners, who were authorized to transport passengers, baggage and light freight (limit single unit 100 pounds) between Sacramento and Plymouth and intermediate points,

the application for a certificate naming as intermediates Perkins, Walsh Station, Eagle Nest, Slough House, Bridge House, Consumne, Michigan Bar, Forest Home and Four Corners. With the approval of the Commission, as shown in its Decision No.8454, dated December 20, 1920, and issued on Application No.6371, Ainsworth transferred his interest in the operating right to Louis Seely. By Decision No.9833, dated December 3, 1921, and issued on Application No.7206, Talbot and Seely were authorized to operate between Sacramento and Plymouth via Central House. By Decision No.18865, dated October 4, 1927, and issued on Application No.14020, the Commission authorized Seely to transfer his interest to Curtis G. Bender, one of the applicants herein. On November 30, 1928, C.W.Talbot was authorized to transfer his interest in the right to Toney Corey. (Decision No.20533, issued on Application No.15185).

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. This order, however, is not to be construed as authority to link up or join the operating right herein transferred with other rights owned by the Schneiders.

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

2- Applicants Oscar Schneider, Albert Schneider, Walter Schneider and Frank Schneider shall immediately united with applicants Bender and Corey in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Bender and Corey on the one hand withdrawing, and applicants Oscar Schneider, Albert Schneider, Walter Schneider and Frank Schneider on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Bender & Corey shall immediately withdraw time schedules filed in their names with the Railroad Commission and Applicants Oscar Schneider, Albert Schneider, Walter Schneider and Frank Schneider shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicants Bender & Corey, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Bender & Corey, 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 Oscar Schneider, Albert Schneider, Walter Schneider and Frank 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.

Dated at San Francisco, California, this 31<sup>st</sup> day of January, 1929.

Thos. D. Butler  
Chas. H. ...  
Frank ...  
Leon ...  
W. J. ...  
COMMISSIONERS.