

Decision No. 21006

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
D. S. MITCHELL to sell, and W.M.SANFORD
and FRANK G. WORD to purchase, the right
to operate, (a) an automobile passenger
and baggage line between Susanville and
California-Oregon State Line and intermed-
iate points via Bieber and Adin, California,
and (b) an automobile passenger, baggage
and express line between Susanville and
Alturas and intermediate points via
Madeline, California.

ORIGINAL

Application
No.15599

BY THE COMMISSION -

OPINION and ORDER

David S. Mitchell has petitioned the Railroad Commission for an order approving the sale and transfer by him to W. M. Sanford and Frank G. Word of operating rights for an automotive service for the transportation of passengers and property between Susanville and California-Oregon state line and intermediate points and between Susanville and Alturas and intermediate points, and W.M. Sanford and Frank G. Word have petitioned for authority to purchase and acquire said operating rights 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 \$7000. Of this sum \$1500 is declared to be the value of equipment and \$5500 is declared to be the value of intangibles. In recording the transaction on his books of account applicant may charge to his fixed capital account not more than \$1500.00.

The operating rights involved herein were established as follows:

By Decision No.7476, dated April 26, 1920, W. I. Long et al., were authorized to operate an automotive service for the transportation of passengers and freight between Susanville and Bieber. By Decision No.10739, dated July 20, 1922, and issued on Application No.8068, this right was transferred to David S. Mitchell. By Supplemental Order, Decision No.21045, dated May 4, 1929, the Railroad Commission authorized Mitchell to serve intermediate points over and along the route served under the right created by Decision No.7476.

By Decision No.17138, dated July 20, 1926, and issued on Application No.11064, David S. Mitchell was granted a right to transport passengers and baggage "between Susanville on the one hand and a point on the California-Oregon state line near the town of Malin, Oregon, and all intermediate points over and along the route via Merrillville, Gerig's, Hayden Hill, Parks Ranch, Adin and Canby (with no local service between Adin and Canby) as a part of and as an extension of the existing stage service now being performed by said Mitchell between Susanville and Bieber, the same to be operated and conducted as one unified and consolidated system of transportation."

By Decision No.18275, dated April 26, 1927, and issued on Application No.12891, the Railroad Commission granted to Lawrence & Estes an operating right for the transportation of passengers and express (latter limited to 100 pounds per unit), between Susanville and Alturas, serving Johnsonville, Standish, Litchfield, Ravendale, Thermo, Madeline, Likely and intermediate points. This right was transferred to David S. Mitchell by Decision No.20292, dated March 29, 1929, and issued on Application No.15508. No authority to consolidate the right acquired from Lawrence & Estes with the Susanville-Malin right was granted.

There are, then, two separate rights involved in this proceeding, one between Susanville and Alturas and intermediate points via Johnsonville and Standish, over which route passengers and

limited express may be transported and the other a right between Susanville and the Oregon line near Malin, via Merrillville, under authority of which freight may be transported between Susanville and Bieber and passengers and baggage between Susanville and the Oregon line, with no service between Adin and Canby.

The application herein asks the Commission to approve the transfer by Mitchell to Sanford and Word of the passenger and express right between Susanville and Alturas and the passenger and baggage right between Susanville and the Oregon line. He proposes to retain and to operate thereunder that part of the Susanville-Oregon line right authorizing the transportation of freight between Susanville and Bieber and intermediate points. The service has been operated by Mitchell as if it had been authorized by two separate rights, that is, freight was transported on trucks and passengers on regular passenger equipment. The Commission has heretofore consistently held to its long established policy of holding an operating right indivisible, but we are of the opinion that, in this instance, a deviation from this policy is justified in that the result will undoubtedly make for better service to the public and that the application should be granted. The seller will devote all his time and energy to the task of meeting freight traffic demands between Susanville and Bieber and the purchasers, operating exclusively as passenger carriers, will be in a position to more fully meet the needs of the public desiring highway transportation. We are of the further opinion that a public hearing is not necessary as no new territory is proposed to be served, and it is not proposed to link up or join the operating rights herein authorized to be transferred.

W. M. Sanford and Frank G. Word, 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 David S. Mitchell be and he is hereby authorized to transfer to W.M. Sanford and Frank G. Word operating rights for an automotive service for the transportation of passengers and baggage between

Susanville and a point on the California-Oregon state line near the town of Malin, Oregon, and all intermediate points via Merrillville, said right being more fully described in the paragraph herein describing right granted by Decision No.17138, and

an operating right for the transportation of passengers and express (the express to be transported being limited to packages weighing not more than 100 pounds each), between

Susanville and Alturas and intermediate points via Standish and Litchfield, said right being more fully described in the paragraph herein describing right granted by Decision No.18275,

provided that the order herein shall not be construed as conveying authority to link up or join said operating rights or to remove any restrictions on said operations heretofore imposed by the Railroad Commission and provided further that the transfer herein authorized shall be 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 David S. Mitchell shall immediately unite with applicants W.M.Sanford and Frank G. Word in common supplement to the tariffs on file with the Commission covering service given under certificates herein authorized to be transferred, applicant Mitchell on the one hand withdrawing, and applicants Sanford and Word on the other hand accepting and establishing such tariffs and all effective supplements thereto, excepting from such supplement tariffs for the transportation of freight between Susanville and Bieber and intermediate points.

3. Applicant Mitchell shall immediately withdraw time schedules covering passenger stage operations filed in his name with the Railroad Commission and applicants Sanford and Word shall immediately file, in duplicate, in their own names time schedules covering passenger stage service heretofore given by applicant Mitchell, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Mitchell, 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 Sanford and Word 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 15th day of May, 1929.

Paul S. Lott

A. J. Jones

Edward J. ...

Leon ...

M. J. ...
COMMISSIONERS.