

Decision No. 91336.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
California Transit Co. to purchase
and Southern Pacific Motor Transport
Company to sell operative rights for
the transportation of passengers be-
tween Dunsmuir and Weed, California.

} Application
No. 15602.

BY THE COMMISSION -

OPINION and ORDER

ORIGINAL

Southern Pacific Motor Transport Company, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to California Transit Co., also a corporation, of an operating right for an automotive service for the transportation of passengers between Dunsmuir and Weed and certain intermediate points and California Transit Co., a corporation, has 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. Applicant California Transit Co. also asks for authority to operate said service under the rules and regulations covering its general system as shown in its Tariff, C.R.C. No. 36, and its Baggage Tariff C.R.C. No. 65. It proposes to adopt the fares applicable to said operating right shown in C.R.C. No. 33 of Southern Pacific Motor Transport Company.

The consideration to be paid for the property herein proposed to be transferred is given as \$2500, all of which sum is declared to be the actual cost of intangibles as shown by the records of the Railroad Commission.

The operating right herein proposed to be transferred was originally granted to V.H. Norris by Decision No. 7435, dated April 15, 1920 and issued on Application No. 5430. Said

decision authorized Norris to operate an automotive service for the transportation of persons between Dunsmuir and Weed. By Decision No. 13528 on Application No. 10030, dated May 7, 1924, the Commission authorized Norris to transfer the certificate granted by Decision No. 7435 to G.L. Morrison. The latter leased the right to M.K. Davis, the Commission approving by its Decision No. 16995 on Application No. 12955. Said lease has now expired. By Decision No. 19277 on Application No. 14205, dated January 23, 1928, Morrison was authorized to transfer the certificate to C.R. Stewart. Said decision defined the operative right transferred as a right to transport passengers only between Dunsmuir and Weed and the intermediate point of Sisson (now Mt. Shasta). The following is from Decision No. 19277:

"The operating right herein proposed to be transferred was originally issued by the Railroad Commission to V.H. Norris, the Commission in its Decision No. 7435, dated April 15, 1920, and issued on Application No. 5430, authorizing Norris to operate 'an automobile passenger stage service between Dunsmuir and Weed.' Attached as exhibits to Application No. 5430 and made a part thereof were tariffs and time schedules showing service to the intermediate points of Sisson (now the town of Mt. Shasta), Shasta Springs and Big Springs. In a letter to the Commission (dated May 7, 1920, file 316-2), regarding the matter of tariff filings in compliance with the Commission's order in Decision No. 7435 Norris advised that it was not his intention to serve Shasta Springs or Big Springs and in the tariff required to be filed (C.R.C. No. 17) he showed service only between Dunsmuir, Sisson (now Mt. Shasta) and Weed. Without first having obtained formal authority he published rates for excess baggage and packages. The package rates were subsequently eliminated by C.R.C. No. 3 but the excess baggage rate was not. C.R.C. No. 3 was adopted by G.L. Morrison to whom Norris, with the approval of the Railroad Commission, as shown by Decision No. 13528, dated May 7, 1924, and issued on Application No. 10030, sold and transferred the operating right herein described. Subsequently Mrs. M.K. Davis, now operating the line under lease, as approved by the Commission in Decision No. 16995, dated June 25, 1926, and issued on Application No. 12955, in her own name, filed with the Commission C.R.C. No. 1 showing service between 'Dunsmuir and Weed and intermediate points; and an excess baggage rate of 1 cent a pound.

"The record shows that the only intermediate point authorized to be served under the operating right heretofore granted to Norris and sold by him to Morrison, one of the applicants herein, is the town of Sisson (now Mt. Shasta). The operating right herein proposed to be transferred will, in view of this record, be considered as a right for the transportation of passengers only between Dunsmuir and Weed and the intermediate point of Sisson now known as Mt. Shasta."

By Decision No. 19278, dated January 23, 1928 and issued on Application No. 14292 the Commission authorized Stewart to transfer the right to Southern Pacific Motor Transport Company.

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.

California Transit Co. 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 California Transit Co., a corporation, be and it is hereby authorized

To purchase the operating right elsewhere herein more fully described and to acquire said right from Southern Pacific Motor Transport Company;

To adopt the passenger fares established under said operating right by Southern Pacific Motor Transport Company and now in effect;

To adopt for the said operation between Dunsmuir and Weed the standard rules and regulations shown in its Local and Joint Passenger Tariff No. 6, C.R.C. No. 36;

To transport baggage in connection with the transportation of passengers between the points covered by said certificate, the rates, rules and regulations governing the transportation of baggage to be those shown in California Transit's Local Baggage Tariff No. 2, C.R.C. No. 63, and

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity authorizing the transportation of baggage under the rates, rules and regulations as set forth in the paragraph immediately preceding this be and the same is hereby granted to California Transit Co., the order herein to 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. Applicants shall make such tariff filings as are required by the Railroad Commission's General Orders, and shall make such time schedule filings as are necessary, the filings in each instance to be satisfactory to the Railroad Commission.

3. 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.

4. No vehicle may be operated by applicant California Transit Co. unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 29th day of July, 1929.

Thos. D. Lewis

Ch. Seavey

Leon Whisell

COMMISSIONERS.