

Decision No. 21407.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
C.F. Whipple to sell and Lewis Harold
Sell to purchase the right to operate
an automobile passenger and express
stage line between Sonora and Cow
Creek, California, and intermediate
points.

Application
No. 15791.

ORIGINAL

BY THE COMMISSION:-

OPINION and ORDER

C.F. Whipple has petitioned the Railroad Commission for an order approving the sale and transfer by him to Lewis Harold Sell of an operating right for an automotive service for the transportation of passengers and property between Sonora and Cow Creek and intermediate points and Lewis Harold Sell 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.

The consideration to be paid for the property herein proposed to be transferred is given as \$7000. Of this sum \$6000. is declared to be the value of equipment and \$1000. is declared to be the value of intangibles.

The operating right herein proposed to be transferred which is for a seasonal service to be operated between May 15 and October 15 of each year was granted to applicant Whipple by Railroad Commission Decision No. 11843 dated March 29, 1923 and issued on Application No. 8798. Said decision authorizes Whipple to transport persons and property between Sonora and Cow Creek and the intermediate points of Confidence, Long Barn, Strawberry and Pine Crest, the property to be transported being limited to packages weighing not more than 100 pounds each. Whipple had also been

authorized to operate between Jamestown and Melones Damsite. This right, however, was revoked by Decision No. 16401, issued on Application No. 11363.

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.

Lewis Harold Sell 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.

2- Applicant Whipple shall immediately unite with applicant Sell in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Whipple on the one hand withdrawing, and applicant Sell on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Whipple shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Sell shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Whipple which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Whipple 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 applicant Sell 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.

6- This order shall not become effective until there has been paid to the Railroad Commission the fee required by the Public Utilities Act and the Auto Stage and Truck Transportation Act to be paid on all evidences of indebtedness extending over a period of one year, in this instance the minimum fee of \$25.00.

Dated at San Francisco, California, this 31st day of

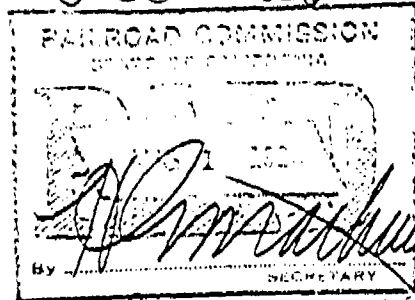
July, 1929.

Thos. Lott

Leon Whitehall

W. J. Carr

Commissioners.



Fee # 57252