

Decision No. 21549.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of George W. Elliott and C.S. Crowell, co-partners, doing business as "Transbay Commercial Service Company", to sell, and H.L. Hinman and W.P. Scott, co-partners, to buy, operative rights to transport property between San Francisco and East Bay Cities.

Application No. 15943.

**ORIGINAL**

BY THE COMMISSION:-

OPINION and ORDER

George W. Elliott and C.S. Crowell, copartners, have petitioned the Railroad Commission for an order approving the sale and transfer by them to H.L. Hinman and W.P. Scott, co-partners, of an operating right for an automotive service for the transportation of property between San Francisco and certain East Bay points and H.L. Hinman and W.P. Scott 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 \$1000 in cash. Of this sum \$590. is declared to be the value of equipment and supplies and \$410. is declared to be the value of intangibles.

The operating right herein proposed to be transferred was granted to Elliott and Crowell by the Railroad Commission in its Decision No. 20635, dated December 28, 1928 and issued on Application No. 15173. Said decision authorized the partnership to operate an

"automobile service for the transportation of property between San Francisco and Oakland, Alameda, Emeryville, Berkeley, San Leandro, Albany and Piedmont, said service to be limited to the transportation of parcels weighing not in excess of one hundred pounds each between business houses exclusively

"and in motor vehicles of closed passenger type of not more than seventy cubic feet inside capacity."

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.

H.L. Hinman and W.P. Scott, co-partners, 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 granted 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 Elliott and Crowell shall immediately unite with applicants Hinman and Scott in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Elliott and Crowell on the one hand withdrawing, and applicants Hinman and Scott on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Elliott and Crowell shall immediately withdraw time schedules filed in their name with the Railroad Commission and applicants Hinman and Scott shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicants Elliott and Crowell which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Elliott and Crowell 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 Hinman and Scott 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 12<sup>th</sup>  
day of September, 1929.

W. J. Cunn

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Leon White

W. J. Cunn  
COMMISSIONERS.