

Decision No. 22395

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
JOHN FLEMING to sell, and ROY STEELE  
to purchase an automobile freight  
line operated between Fresno and Orange  
Cove, California.

Application  
No. 16466

BY THE COMMISSION -

OPINION and ORDER

John Fleming has petitioned the Railroad Commission for an order approving the sale and transfer by him to Roy Steele of an operating right for an automotive service for the transportation of property between Fresno and Orange Cove, and Roy Steele 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 \$2321.50. Of this sum \$1121.50 is declared to be the value of equipment and \$1200 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was granted to Fleming by Decision No. 21514, dated September 4, 1929, and issued on Application No. 15706. Said decision authorized: the establishment of an automobile freight service for the transportation of freight in packages or weights in excess of fifty (50) pounds between Fresno and Orange Cove, Orosi, Cutler, Yettam and Sultana and all points intermediate to Orange Cove, Yettam and Sultana, over and along the following route:

From Fresno via main highway through Parlier and Reedley to Orange Cove, thence south to Orosi, Cutler and Yettem, thence west from Cutler to Sultana, returning over the same identical route .

At the hearing on Application No.15706 Fleming stipulated that he would not serve points intermediate between Fresno and Orange Cove, territory served by Fortier and Sons.

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.

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

3- Applicant Fleming shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicant Steele shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Fleming, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Fleming, 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 Steele 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 1st day of May, 1930.

C. L. Seaver  
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W. D. Lattin  
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W. P. Cunn  
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COMMISSIONERS.

See \$25.00  
RAILROAD COMMISSION  
MAY 5 1930  
W. P. Cunn  
See # 28813