

Decision No. 22555

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of N. BORONDA to sell, and GEO. C. COWART to purchase a transportation company engaged in transporting passengers, baggage, and express by automobile stage between Monterey and Jamesburg, California, and now operated under the name and style of N. Boronda Mail Stage.

)
 Application
 No. 16600

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

N. Boronda has petitioned the Railroad Commission for an order approving the sale and transfer by him to Geo. C. Cowart of an operating right for an automotive service for the transportation of passengers and property between Monterey and Jamesburg, and Geo. C. Cowart 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 \$100, all of which sum is declared to be the value of intangibles.

The operating right herein proposed to be transferred was established by Boronda through operation prior to May 1, 1917, of a tri-weekly service as indicated by tariffs and time schedules filed with the Railroad Commission. By such filings he established a right to transport passengers, baggage and express between Monterey and Jamesburg only. His tariff contained a rule providing that no package weighing in excess of 300 pounds would be carried.

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.

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

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

Dated at San Francisco, California, this 21st day of
June, 1930.

Ch. Leary

Leon Whitely
Paul Lewis

COMMISSIONERS.