

Decision No. 22614.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 William E. Arthur to sell and Sam)
 Milton to purchase an automobile)
 passenger and freight line, operated)
 between Merced Falls and Hornitos,)
 California and intermediate points.)

ORIGINAL

Application
 No. 16656.

BY THE COMMISSION:-

OPINION and ORDER

William E. Arthur has petitioned the Railroad Commission for an order approving the sale and transfer by him to Sam Milton of an operating right for an automotive stage service for the transportation as a common carrier of passengers and freight between Merced Falls and Hornitos and intermediate points and Sam Milton 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 \$1.00 the entire amount of which is declared to be the value of intangibles.

The operating right herein proposed to be transferred was granted to Richard Morrissey, Jr. by the Railroad Commission in its Decision 12026, dated May 3, 1923, and issued on Application 8811. Said decision authorizes the operation

"... of an automotive stage line as a common carrier of passengers and freight between Merced Falls and Hornitos and intermediate points....".

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.

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

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

July, 1930.

Edmund C. Smith
John G. Laidlaw
COMMISSIONERS