

**ORIGINAL**Decision No. 22886

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 W. M. SANFORD and FRANK G. WORD, a )  
 co-partnership doing business under )  
 the firm name and style of O.C. & N. ) Application  
 STAGES, and WARD G. ALLEN and ) No. 16699  
 VERN C. LINVILLE for the approval of )  
 a certain agreement and the transfer )  
 of certain operative rights. )

BY THE COMMISSION -

OPINION and ORDER

Ward-G. Allen and Vern C. Linville, co-partners, have petitioned the Railroad Commission for an order approving the sale and transfer by them to W. M. Sanford and Frank G. Word of operating rights for an automotive service for the transportation of passengers and property between Redding and Bieber, Burney and Cayton and Redding and Mud Springs, and W. M. Sanford and Frank G. Word, co-partners, have petitioned for authority to purchase and acquire said operating rights 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 properties herein proposed to be transferred is given as \$3000. Applicants do not, in this petition, allocate the amount to the various items of property, tangible and intangible, and consequently we are unable to determine from the showing made if the consideration reasonably is chargeable in its entirety to plant and equipment accounts. We believe, therefore, that the purchasers in recording the transaction on their books of account should charge the amount they may pay to Account 109 - Other debit accounts - and carry it therein until its

distribution to primary accounts is approved by the Commission.

The records of the Commission show that the operating rights herein proposed to be transferred were established as follows:

Application No.3895, Decision No.5715, dated August 26, 1918 -

J. D. Weast authorized to operate

"an automobile stage line as a common carrier of passengers, baggage, express and freight between Redding, Montgomery Creek and Fall River Mills, all in Shasta County;"

Application No.8019, Decision No.10770, dated July 25, 1922 -

J. D. Weast authorized to operate

"an automotive stage service for the transportation of passengers, baggage, express and freight between Fall River Mills, Shasta County, and Bieber, Modoc County, and intermediate points."

Application No.9235, Decision No.12445, dated August 2, 1923 -

J. D. Weast authorized to acquire from S. S. Summers and Dan Summers, co-partners, the certificate granted to the Summers by Decision No.11729, dated February 27, 1923, in Application No.8714, as follows:

"an automobile stage line as a common carrier of passengers and freight between Burney and Cayton, serving Pitt 3 as an intermediate point."

J. D. Weast was also authorized in said decision to operate

"an automotive stage line as a common carrier of freight between Redding, Cayton and intermediate points including Pitt 3,"

in connection with which the Commission ordered as follows:

"said certificate is in conjunction with and not in addition to the operative right now held by said J. D. Weast between Redding and Bieber and Burney and Cayton, but is solely for the purpose of authorizing the operation of through passenger and freight service between the points mentioned in said declaration."

Application No.10815, Decision No.14776, dated April 10, 1925,

J. D. Weast authorized to operate

"an automobile stage service for the transportation of passengers, express and freight between Redding and a point on the county road known as Mad Springs, distant two and one-half miles, more or less, south of Big Bend Hot Springs, where the county road is or will be intersected by the private road of the Mt. Shasta Power Corporation leading to Pitt Four, situated on the Pitt River in section 9, township 36 north, range 1 east, Mt. Diablo Meridian, and also between intermediate points other than points between Montgomery Creek and said Mad Springs."

Application No.10994, Decision No.14894, dated April 15, 1925,

J. D. Weast -

"authorized to acquire from B. Stevens a prescriptive operating right acquired by Stevens from John Freeborn by Decision No.10821 of August 3, 1922, in Application No.8113. Such prescriptive right was established by Freeborn as evidenced by C.R.C. No.1 of John Freeborn Stage Line Local Passenger Tariff No.1, effective May 1, 1918, which shows rates for transportation of passengers, packages and excess baggage, 30¢ free, between Montgomery Creek, Wengler and Big Bend. This tariff carries the notation:

'No package or shipment weighing over 100 pounds will be handled by passenger auto.' "

Application No.14619, Decision No.20080, dated August 2, 1928, W. C. Allen and V. L. Linville were authorized to acquire above rights. By Supplemental Order (Decision No.20185, dated August 30, 1928), the Commission amended Decision No.20080 to provide for the transfer of certain of the above rights which through an inadvertence were not included in the original order.

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, provided that such granting is not to be construed as binding the Commission hereafter to recognize the consideration being paid as the proper basis for an order authorizing the issue of stock or other securities, or fixing rates, or for any other purposes.

W. M. Sanford and Frank C. Word 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, 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 other public body as a measure of value of said property for rate fixing, security issues or any purpose other than the transfer herein authorized.

2- Applicants Allen and Linville shall immediately unite with applicants Sanford and Word in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Allen and Linville on the one hand withdrawing, and applicants Sanford and Word on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicants Allen and Linville shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicants Sanford and Word shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicants Allen and Linville, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Allen and Linville, 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 Sanford and Word 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.

6- This order shall not be construed as authority to Sanford and Word to link up or consolidate the various distinct rights herein transferred, nor to link up or consolidate them with other rights owned by Sanford and Word.

Dated at San Francisco, California, this 9th day of

July, 1930.

Edmund G. Catts  
Leon Whitney  
Wm. B. Smith

COMMISSIONERS.