

Decision No. 22873

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of O. S. SMITH, doing business as Reedley Transfer Co., for certificate of public convenience and necessity to operate freight service as common carrier between Sanger, California, and General Grant National Park; and for transfer of truck line of BACON SERVICE CORPORATION from Alta Avenue and Squaw Valley Road to General Grant National Park; and application of BACON SERVICE CORPORATION for permission to abandon service from Sanger to Alta Avenue and Squaw Valley Road.

ORIGINAL

) Application  
) No.16681

BY THE COMMISSION -

OPINION and ORDER

In this proceeding O. S. Smith, doing business as Reedley Transfer Co., and Bacon Service Corporation ask jointly for an order of the Commission authorizing the transfer to Smith of an operating right for an auto trucking service between Sanger and General Grant National Park granted to Bacon Service Corporation by Railroad Commission Decision No.19088, dated December 2, 1927, and issued on Application No.14138. Smith further asks for an order of the Commission permitting him to operate between Reedley, from which point he transports mail to the Park, and General Grant National Park and intermediate points, instead of between Sanger and General Grant Park, eliminating service between Sanger and a point at Alta Avenue and Squaw Valley road, territory served under the Bacon right.

Applicant Smith, in Exhibits A and B, attached to the application herein and made a part thereof, submits rates and time schedules proposed to be charged and followed in the operation proposed by him between Reedley and the Park.

The consideration to be paid for the property proposed to be transferred is given as \$1000, all of which sum is declared to be the value on intangibles.

The City Council of Sanger and the Chamber of Commerce of that city, by resolutions, copies of which have been filed with the Commission, have declared they have no objection to the elimination of service to Sanger. Sequoia and General Grant National Parks Co., which operates an auto stage service into the Park, has advised it has no objection to the proposed service, provided it is limited to the transportation of freight.

Under the circumstances we are of the opinion that the application should be granted and that it is not a matter in which a public hearing is necessary.

IT IS HEREBY ORDERED that the application of Bacon Service Corporation to sell, and O. S. Smith to purchase and acquire and operating right for the transportation of freight between Sanger and General Grant National Park and intermediate points heretofore granted to Bacon Service Corporation by Railroad Commission Decision No. 19088, and for authority to discontinue service between Alta Avenue and Sanger be and the same is hereby granted.

O.S. Smith 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.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by O. S. Smith of an automobile service for the transportation of freight, daily except Sunday, between Reedley and General Grant Park and all intermediate points over and

along the following route:

Reedley to Orange Cove over Orange Cove Highway, north on Jacobs Avenue to Washington Avenue, west on Washington Avenue to Alta Avenue, north on Alta Avenue to Navelencia Avenue, north from Navelencia Avenue on Alta Avenue to Squaw Valley Road, Squaw Valley to Dunlap over Dunlap highway, Dunlap to Miramonte over Dunlap highway and Sand Creek Road. Miramonte to Pinehurst over Sand Creek Road, Pinehurst to General Grant National Park via Sequoia Lake and return over Sand Creek Road.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity for such a service be and the same is hereby granted to O. S. Smith, said certificate to be in lieu of certificate acquired under authority of the order herein from Bacon Service Corporation and to be subject to the following conditions:

1- That Bacon Service Corporation shall within twenty (20) days from the date hereof cancel all tariffs and time schedules filed by it with the Railroad Commission covering service between Sanger and General Grant National Park.

2- That concurrently with the filing of said cancellation O. S. Smith shall file in his own name or the name of Reedley Transfer Co., tariffs and time schedules covering service between Reedley and General Grant National Park and all intermediate points, which tariffs and time schedules shall be in form and substance satisfactory to the Railroad Commission.

3- Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.

4- The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5- No vehicle may be operated by applicant herein 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.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 11<sup>th</sup> day of July, 1930.

Chas. S. Sweeney  
Edward J. [unclear]  
Leon Whittell  
Don D. [unclear]

\_\_\_\_\_  
COMMISSIONERS.