

Decision No. 22736.

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )	
of Elizabeth Merian to purchase )	
the operative rights of )	
C.E. O'Rourke of an automobile )	Application
passenger and freight line )	No. 16776.
operating between Quincy, Calif- )	
ornia, and La Porte, California. )	

BY THE COMMISSION -

**ORIGINAL**OPINION and ORDER

C.E. O'Rourke has petitioned the Railroad Commission for an order approving the sale and transfer by him to Elizabeth Merian of an operating right for an automotive service for the transportation of passengers and property between Quincy and La Porte and certain intermediate points and Elizabeth Merian 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 terms set forth in the application herein.

The consideration to be paid for the property herein proposed to be transferred is given as the nominal sum of \$1.00.

The operating right herein proposed to be transferred was originally granted to L.B. O'Rourke by Railroad Commission Decision No. 10307, dated April 12, 1922 and issued on Application No. 7722, which decision authorized O'Rourke to transport passengers and freight between "Quincy and La Porte serving as intermediate points Gibsonville, Onion Valley and Nelson Point". By Decision No. 20116, dated August 15, 1928 and issued on Application No. 14907, the right was transferred to C.E. O'Rourke, one of the applicants herein.

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.

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

3- Applicant O'Rourke shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Merian shall immediately file, in duplicate, in her own name time schedules covering service heretofore given by applicant O'Rourke which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant O'Rourke 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 Merian unless such vehicle is owned by said applicant or is leased by her under a contract or agreement on a basis

satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 14<sup>th</sup> day  
of August 1930.

Al Stewart  
Edmund G. Galt  
Leon A. White  
Wm. L. Galt

COMMISSIONERS.