

Decision No. 22822.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)	
LOUIS HANSEN to sell, and CLARENCE T.)	
SMALLEY to purchase an automobile)	Application No. 16756
freight line operated between Potter)	
Valley and Ukiah, California, and)	
intermediate points.)	

ORIGINAL

OPINION AND ORDER

Louis Hansen has petitioned the Railroad Commission for an order approving the sale and transfer by him to Clarence T. Smalley of operating rights for an automotive service for the transportation of property between Potter Valley and Ukiah and intermediate points, and Clarence T. Smalley has 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 property herein proposed to be transferred is given as \$1146.00, all of which sum is declared to be the value of intangibles. The records of the Commission show that the operating rights herein proposed to be transferred were established as follows:

By Decision No. 6088, dated January 28, 1919, and Decision No. 6246, dated April 11, 1919, both issued on Application No. 4326, Henry Johnston was authorized to operate an automotive service for the transportation of passengers, freight, baggage and express between Ukiah and Potter Valley. On July 29, 1920, James Johnston Thornton, by Decision No. 7930 issued on Application No. 5827, was authorized to transport freight and express (except cream) between

Ukiah and Potter Valley and intermediate points. By Decision No. 11380, dated December 22, 1922 and issued on Application No. 8500, the Henry Johnston right (Decisions 6088-6246) was transferred to E. F. Harvey. Louis Hansen acquired this right under authority of Decision No. 12606, dated September 13, 1923, and issued on Application No. 9326. Hansen, on August 4, 1921, by Decision No. 9308 issued on Application No. 7057, had acquired the James Johnston Thornton right (Decision 7930). By the Thornton right, Hansen acquired authority to serve the points intermediate between Ukiah and Potter Valley.

On March 19, 1930, by Decision No. 22,223, issued on Application No. 16370, Hansen was authorized to discontinue the business of transporting passengers. Thereupon, Hansen cancelled all tariffs covering his passenger stage operations, including baggage and express tariffs, leaving in effect only rates, rules and regulations covering service for the transportation of freight. Thus it appears from the records that the right herein proposed to be transferred is a right for the transportation of freight only between Ukiah and Potter Valley 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, provided that in recording the transaction on his books of account applicant may charge to his fixed capital account not more than \$500.00.

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

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

6- This order shall not become effective until there has been paid to the Railroad Commission the fee required by the Public Utilities Act and the Auto Stage and Truck Transportation Act to be paid on all evidences of indebtedness extending over a period of one year, in this instance the minimum fee of \$25.00.

Dated at San Francisco, California, this 29th
day of August, 1930.

C. P. [Signature]
Leon [Signature]
[Signature]

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RAILROAD COMMISSION
STATE OF CALIFORNIA
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