

Decision No. 23431

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
CHARLES E. ELLIS to sell, and
JAMES H. WILLIAMS to purchase an
automobile passenger and express
line operated between Elk Creek and
Orland, California.

ORIGINAL

Application No. 17180

BY THE COMMISSION -

OPINION and ORDER

Charles E. Ellis has petitioned the Railroad Commission for an order approving the sale and transfer by him to James H. Williams of an operating right for an automotive service for the transportation of passengers and property between Elk Creek and Orland and intermediate points, and James H. Williams 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 the agreement set forth in the application.

The consideration to be paid for the property herein proposed to be transferred is nominal.

The operating right herein proposed to be transferred was granted to applicant Ellis by Decision No. 17177 of August 2, 1926, in Application No. 12935 for the operation by Chas. H. Ellis of an automobile service for the transportation of passengers and freight between Elk Creek and Orland and intermediate points via Newville and Millsaps.

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.

Applicant Williams 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 Ellis shall immediately unite with applicant Williams in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Ellis on the one hand withdrawing, and applicant Williams on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Ellis shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicant Williams shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Ellis, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Ellis, 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 Williams 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 24th day of February, 1931.

C. S. Sweeney
Leon A. Whelan
W. H. Linn
W. R. Higgins
Fred C. Stewart
COMMISSIONERS.