

Decision No. 23702

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 WILLIAM A. TIPPIN to sell, and)
 EDWARD BAHLER to purchase an automobile) Application
 passenger and freight line operated) No.17358
 between San Bernardino and Swartout,)
 Big Pines (Los Angeles County Park).)

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

William A. Tippin has petitioned the Railroad Commission for an order approving the sale and transfer by him to Edward Bahler of an operating right for an automotive service for the transportation of passengers and property between San Bernardino and Swartout, and Edward Bahler 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 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 \$500.00, all of which sum is declared to be the value of intangibles.

The operating right herein proposed to be transferred was granted to Tippin by Decision No.19922 of June 25, 1928, in Application No.14496

".... for the operation of an automobile stage line as a common carrier, for compensation, of passengers, express and freight between San Bernardino and Swartout (Big Pines Los Angeles County Park) and the intermediate points of Lime Quarry, Clydes and Wrightwood,"

subject to the restriction that

"No passengers, express or freight are to be picked up or delivered on the portion of the route herein authorized lying between San Bernardino and the junction of the Big Pine and Victorville roads in the County of San Bernardino."

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.

Edward Bahler 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- No authority is herein conferred for the joining or linking together by applicant Bahler of the right herein acquired with the operating right now owned by applicant Bahler.
- 2- 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.
- 3- Applicant Tippin shall immediately unite with applicant Bahler in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Tippin on the one hand withdrawing, and applicant Bahler on the other hand accepting and establishing such tariffs and all effective supplements thereto.
- 4- Applicant Tippin shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Bahler shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Tippin, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Tippin, or time schedules satisfactory to the Railroad Commission.

5- 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.

6- No vehicle may be operated by applicant Bahler 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 18th day of May, 1931.

C. Seavey
Leon Whitely
M. A. Lee
M. B. Harris
Fred G. Stewart
COMMISSIONERS.