

Decision No. 23742

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 PAUL DERKUM to sell, and HENRY B.
 ELBERT to purchase an automobile
 line (passenger and express) operated
 between Bakersfield, Arvin and
 intermediate points.

)
)
) Application
) No. 17368
)

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

Paul Derkum has petitioned the Railroad Commission for an order approving the sale and transfer by him to Henry B. Elbert of an operating right for an automotive service for the transportation of passengers and property between Bakersfield and Arven Store and certain intermediate points, and Henry B. Elbert 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. Of this sum \$200.00 is declared to be the value of equipment, and \$300.00 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was established as follows:

Decision No. 9409 of August 24, 1921, in Application No. 6793, granted a certificate to William Giminianni for the operation

"of an automobile stage line for the transportation of passengers, baggage and express between Bakersfield and Arven Store, serving as intermediate points Union Avenue Plunge, Greenfield Store and Weed Patch, "

Decision No.9650 of October 26, 1921, in Application No.7268, authorized a change of route between Bakersfield and Arven Store as follows:

"In this proceeding Wm. Giminiani, doing business under the fictitious name of Bakersfield-Buttonwillow Auto Stage, has applied to the Railroad Commission for an order authorizing him to change the present route of his auto passenger stage line between Bakersfield and Arven Store and to operate via Magunden and Mt. View School and Weed Patch instead of Union Avenue Plunge and Greenfield Store.

IT IS HEREBY ORDERED that the above entitled application be and the same hereby is granted...."

Decision No.14855 of April 29, 1925, in Application No.11022 authorized Derkum to acquire the above described operating right from Giminiani.

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.

Henry B. Elbert is hereby placed upon notice that "operative rights" do not constitute a class of property which may 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 Elbert shall immediately unite with applicant Derkum in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Derkum on the one hand withdrawing, and applicant Elbert on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Derkum shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Elbert shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Derkum, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Derkum, 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 Elbert 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 1st day of June,
1931.

P. L. Scanes
Leon C. White
M. J. C.
M. B. Harris
James G. Stewart
COMMISSIONERS.