

Decision No. 23812

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 B. A. FLAUTT to sell and transfer,
 and RAILWAY EXPRESS AGENCY, Incorporated
 of California, a California
 corporation, to acquire an automobile
 freight line between Gilroy, Cal. and
 Hollister, Cal. only.

)
)
) Application
) No. 17450
)
)

BY THE COMMISSION -

OPINION and ORDER

ORIGINAL

B. A. Flautt has petitioned the Railroad Commission for an order approving the sale and transfer by him to Railway Express Agency, Incorporated of California, of an operating right for an automotive service for the transportation of property between Gilroy and Hollister, and Railway Express Agency, Incorporated of California, 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 the nominal sum of \$1.00.

The operating right herein proposed to be transferred was granted to B. A. Flautt by Decision No. 23737, dated May 28, 1931, and issued on Application No. 17350. Said decision authorizes operation by Flautt of a trucking service between Hollister and Gilroy on the following schedules:

Week Days

Lv. Gilroy 5:30 A.M.	Ar. Hollister	6:05 AM.
Lv. Hollister 5:00 PM.	Ar. Gilroy	5:50 PM

Sundays and Holidays

Lv. Gilroy 5:30 AM. Ar. Hollister 6:05 AM.
Lv. Hollister 9:00 AM. Ar. Gilroy 9:45 AM.

The certificate was granted subject to the following conditions:

- a- That applicant shall confine his operations to the transportation of express of Railway Express Agency, Inc.
- b- That no service shall be given to points intermediate between Gilroy and Hollister.
- c- That the service shall be limited to the service set forth in the time schedule (Exhibit A), attached to and made part of the application herein.

Valley Truck Line waived opposition to the granting of the certificate

"with the understanding that the business to be handled under the above application by B. A. Flantt is to be confined to the business of the Railway Express Agency, Inc., which has heretofore been handled by the Pacific Greyhound Lines on their early morning and late afternoon trips from Gilroy to Hollister and Hollister to Gilroy, and that B. A. Flantt does not intend to engage in general hauling for account of any person other than the Railway Express Agency, Inc. between these two points, and does not intend to haul to intermediate points between Gilroy and Hollister."

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.

Railway Express Agency, Incorporated of California, 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 Flautt shall immediately unite with applicant Railway Express Agency, Incorporated of California, in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Flautt on the one hand withdrawing, and applicant Railway Express Agency, Incorporated of California, on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Flautt shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Railway Express Agency, Incorporated of California, shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicant Flautt, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Flautt, 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 Railway Express Agency, Incorporated of California, unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty days from the date hereof.

Dated at San Francisco, California, this 22nd day of June, 1931.

P. J. Deane
Leon. C. White
W. H. Allen
W. B. Harris
Fred G. Westbrook
COMMISSIONERS.