

Decision No. 23839

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 LEWIS H. SELL for a certificate of
 public convenience and necessity
 to operate an automobile stage seasonal
 service for the transportation of
 passengers, baggage and property as a
 common carrier for compensation between
 Cow Creek and Dardanelle, California,
 and all intermediate points, and to
 consolidate and unify said operative
 right with applicant's present passenger,
 baggage and property operative right
 between Sonora and Cow Creek, California,
 and all intermediate points.

) Application
) No. 17462

BY THE COMMISSION -

OPINION and ORDER

This is an application by Lewis H. Sell, owner and operator of an automotive passenger stage service (seasonal) for the transportation of persons and property between Sonora and Cow Creek and intermediate points, for a certificate of public convenience and necessity authorizing him to operate a seasonal service between Cow Creek and Dardanelle and intermediate points, said service to be performed as an extension of his existing right. Applicant proposes to operate a daily service between Sonora and Strawberry, and a twice a week service between Strawberry and Dardanelle. The rates he proposes to charge and the service he proposes to give are shown in exhibits attached to the application herein and made a part thereof. The rules and regulations shown in tariffs now on file with the Railroad Commission will be observed.

Applicant has been operating a daily service (seasonally, dependent upon road and weather conditions), between Sonora and Cow Creek. Because of changes in the lumber industry traffic beyond Cow Creek has decreased to the point that daily

service beyond Strawberry is not required. Applicant is of the opinion, however, that an extension of his operations to Dardanelle will yield sufficient revenue to justify an operation (round trip) on each Tuesday and Friday of each week between Strawberry and Dardanelle. The effect of such an operation will be to provide daily service between Sonora and Strawberry and intermediate points and service twice a week between Sonora and Dardanelle and intermediate points, sufficient service, according to applicant, to take care of the needs of the traveling public in the territory.

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. We are also of the opinion that for the purpose of making a clear record a certificate should be issued in lieu of the applicant's existing right, said in lieu certificate to cover the territory now served and the proposed extension.

Lewis H. Sell 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.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require the operation of an automobile service for the transportation of passengers, baggage and express between Sonora and Dardanelle and all intermediate points, via Long Barn and Strawberry and Cow Creek, also by diversion to Pine Crest, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be granted to Lewis H. Sell, subject to the following conditions:

1. That no package weighing in excess of 100 pounds shall be accepted for transportation.
2. That daily service shall be operated between Sonora and Strawberry and intermediate points; that at least two round trips a week shall be operated between Strawberry and Dardanelle and intermediate points.
3. That the service shall be operated within a period extending approximately from May 15th to October 15th of each year.
4. That applicant shall file within twenty (20) days from the date hereof an acceptance of the certificate herein granted which acceptance shall contain a declaration that the certificate herein granted is accepted in lieu of the certificate heretofore acquired by Lewis H. Sell under authority of Decision No. 21407, issued on Application No. 15791, which certificate is hereby revoked.
5. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application insofar as they conform to the certificate herein granted.
6. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof time schedules, covering the service herein authorized, in a form satisfactory to the Railroad Commission.
7. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
8. No vehicle may be operated by applicant herein 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.

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

Dated at San Francisco, California, this 29th day of June, 1931.

Al Seaver
Leon Whitball
W. H. Cur
W. B. Harris

COMMISSIONERS.