

ORIGINAL

Decision No. 23887

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 MOTOR TRANSIT COMPANY, a corporation,)
 to sell, and MOTOR SERVICE EXPRESS,)
 a corporation, to purchase automobile) Application No. 17444
 freight line operated between)
 Riverside, Idyllwild and Keen Camp,)
 California.)

BY THE COMMISSION -

OPINION and ORDER

Motor Transit Company, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to Motor Service Express, also a corporation, of operating rights for an automotive service for the transportation of property between Riverside, Idyllwild and Keen Camp and intermediate points, and Motor Service Express has petitioned for authority to purchase and acquire said operating rights 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 \$2000.00, all of which sum is declared to be the value of intangibles.

The records of the Commission show that one Cregar, whose rights were subsequently acquired by Motor Transit Company, was authorized by Decision No. 10733 on Application No. 7888, to operate a trucking service "between Keen Camp and Idyllwild on the one hand and Riverside, Ferris, Hemet or San Jacinto on the other hand."

By Decision No.18749 on Application No.11502, dated August 25, 1927, Motor Transit Company was "authorized to transport baggage and express up to 100 pounds, between all points on the several operative divisions of applicant's system * * * on the passenger cars of applicant." The so-called Cregar lines, affected by this order, acquired by Motor Transit Company by Decisions No.13371 and 17577, on Application No.9780, are described in Application No.11502 as follows:

Between San Jacinto and Idyllwild, via Oak Cliff and Keen Camp.

Between Riverside and San Jacinto, via Eden Hot Springs and Gilman Hot Springs as intermediate points.

Between Keen Camp or Idyllwild on the one hand and Banning, Beaumont or Riverside on the other hand, providing that no local service be operated between Banning, Beaumont or Riverside.

By Decision No.21300, dated June 28, 1929, and issued on Application No.13690, Motor Transit Company was authorized to transport freight without limit as to weight between all intermediate points between Riverside, Hemet and San Jacinto, Keen Camp and Idyllwild.

A close study of the property carrying rights granted to or acquired by Motor Transit Company covering service in the San Jacinto Mountain territory fails to make clear the exact routing authorized. It appears, however, that Motor Transit Company has been operating between Riverside and Idyllwild, via both the Perris route and the route via Moreno, Eden and Gilman's Hot Springs, with a diversion to Soboba Hot Springs, serving under authority of Decision No.21300, all intermediate points on both routes. For the purpose of clarifying the many orders issued from time to time by the Commission affecting this territory, it would seem advisable, at this time, to definitely fix the routes to be traversed under authority of the operating rights herein proposed to be transferred. Therefore, it is hereby declared that the operating rights herein proposed to be transferred authorize a service for the transportation of freight

Between Riverside and Idyllwild and all intermediate points, via March Field, Val Verde, Perris, Romoland, and Hemet and via Armada, Moreno, Eden, Gilman's Hot Springs, Soboba Hot Springs (the latter by diversion) and San Jacinto, Hemet and Keen Camp.

While the "splitting of rights" and the sale and transfer of a part of a right is not generally approved by the Commission, there are occasions, such as the present one, where sound public policy would indicate a departure from its well established rule advisable. Motor Transit Company is an automotive passenger stage line primarily and principally interested in the transportation of passengers and their baggage and small packages weighing not more than 100 pounds each. Motor Service Express is a truck line interested only in the movement of general freight. Each has a definite field of operation and the shipping and traveling public will be the gainer if the efforts of each is confined to the particular field each is best fitted to serve.

We are, therefore, of the opinion that this application should be granted with the understanding that the order herein shall not deprive the Motor Transit Company of the right to transport passengers, baggage and express within the limits of certificates covering this territory heretofore granted for such a service. A public hearing does not appear to be necessary.

Motor Service Express, a corporation, 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 Motor Transit Company shall immediately unite with applicant Motor Service Express in common supplement to the tariffs on file with the Commission covering freight service given under operating rights herein authorized to be transferred, applicant Motor Transit Company on the one hand withdrawing, and applicant Motor Service Express on the other hand accepting and establishing such tariffs and all effective supplements thereto, eliminating by special reference points not covered by the rights herein authorized to be transferred.

3- Applicant Motor Transit Company shall immediately withdraw freight time schedules filed in its name with the Railroad Commission covering the rights herein authorized to be transferred and applicant Motor Service Express shall immediately file, in duplicate, in its own name time schedules covering freight service heretofore given by applicant Motor Transit Company, which time schedules shall be identical with the freight time schedules now on file with the Railroad Commission in the name of applicant Motor Transit Company, 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 Motor Service Express 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.

6- This order shall not be construed as authority for Motor Service Express to link up, join or consolidate the operating rights herein authorized to be transferred with its existing rights, nor to perform any service to points not directly on the routes herein specifically laid down.

The effective date of the order herein is hereby fixed at twenty (20) days from the date hereof.

Dated at San Francisco, California, this 3rd day of July,
1931.

C. C. Kearney

M. J. Carr

Fred G. Stewart
COMMISSIONERS.