

Decision No. 24010

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 R. M. NELSON to sell; and JOHN MASSING)
 to purchase an automobile passenger) Application
 line operated between Southern Pacific) No.17631
 Depot at Palo Alto, California, and)
 U. S. Public Health Service Station,)
 near Palo Alto, California.)

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

R. M. Nelson and John Massing have petitioned the Railroad Commission for an order approving the sale and transfer by R. M. Nelson to John Massing of an operating right for an automotive service for the transportation of passengers between Palo Alto and U. S. Public Health Service Station, and John Massing 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 \$8000.00. Of this sum \$4000.00 is declared to be the value of equipment and \$4000.00 is declared to be the value of intangibles.

The operating right herein proposed to be transferred originated in a certificate granted by Decision No.7366, on Application No.5376, dated April 3, 1920, which right has not been altered or modified since date of issuance. The right was for the "operation of an automobile passenger line between Southern Pacific Depot at Palo Alto and the U. S. Public Health Service Station." The distance between termini is 2.15 miles.

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, provided that applicant Massing may not charge to his plant and equipment account more than \$4000.00. Any sum paid in excess of \$4000.00 for the aforementioned properties must be charged to Account No.315, "Miscellaneous Charges to Income."

John Massing 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 R.M. Nelson shall immediately unite with applicant John Massing in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant R.M. Nelson on the one hand withdrawing, and applicant John Massing on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant R.M. Nelson shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant John Massing shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant R.M. Nelson, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant R.M. Nelson, 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 John Massing 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 9th day of September, 1931.

C. L. Scudder

W. A. Carr

W. B. Harris

Frederic G. Stewart
COMMISSIONERS.