

Decision No. 24033

ORIGINAL

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) Application
 corporation, to purchase automobile) No.17617
 passenger and express line operated)
 between Hemet, Idyllwild and Keen)
 Camp, California.)

BY THE COMMISSION -

OPINION and ORDER

Motor Transit Company, a corporation, and Motor Service Express, a corporation, have petitioned the Railroad Commission for an order approving the transfer by Motor Transit Company to Motor Service Express of an operating right for an automotive service for the transportation of passengers and property between Hemet, Idyllwild and Keen Camp and intermediate points, and Motor Service Express has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder, the 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.

No consideration to be paid for the operating right herein proposed to be transferred, and no equipment is involved.

The operating right herein proposed to be transferred is a part of the consolidated and unified rights now possessed by applicant Motor Transit Company as the same were acquired from R. B. Cregar through Decisions Nos.13371 and 17377 on Application No.9780. The operating right, separately, originated in a certificate granted to R. E. Williams by Decision No.4921 on Application No.3355 for an automobile passenger service between San Jacinto and Idyllwild and the intermediate point of Keen Camp. The right was transferred to R. B. Cregar by Decision No.7763 on Application No.5791 and by him transferred to Motor Transit Company, as before stated.

Applicant Motor Service Express expects to conduct the business of this line except for a change of schedule, which, considering the largely seasonal character of the service and the small volume of traffic, appears reasonable. In authorizing this transfer it is with the express understanding that Motor Service Express, whose operations otherwise are wholly of property, will provide adequate and comfortable service for passengers. Further as Motor Transit Company is seeking, in Application No.17441, now pending, to abandon the service covering the operating right herein transferred, the offer of Motor Service Express to serve Homet is aiding in the preservation of both passenger and freight service.

Motor Service Express 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- That the operating right, transfer of which is herein authorized, shall be considered as an independent right and may not be linked up or merged with any other rights, either as to freight or passenger, or both, now held by Motor Service Express, unless and until, by further order of the Commission herein, such or other authority to merge, consolidate or link up is granted.
- 2- 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.

3- Applicant Motor Transit Company shall immediately unite with applicant Motor Service Express in common supplement to the tariffs on file with the Commission covering service given under certificate 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.

4- Applicant Motor Transit Company shall immediately withdraw time schedules filed in its name with the Railroad Commission and applicant Motor Service Express shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicant Motor Transit Company, which time schedules shall be identical with the 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.

5- 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.

6- 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.

Dated at San Francisco, California, this 14th day of
September, 193.

C. J. Sweeney

Leon Whittell

M. A. Can

W. B. Harris

Fred G. Stevenson

Commissioners.