

Decision No. 24181.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
C.E. SANSOME, for a certificate of  
public convenience and necessity for  
the transportation of express between  
Taft and Maricopa, and between Taft  
and Fellows, and intermediate points.

Application  
No. 17704.

BY THE COMMISSION:

**ORIGINAL**

O P I N I O N

C.E. Sansome operating automotive passenger service between Taft and Maricopa and between Taft and Fellows and intermediate points, has made application to the Commission for a certificate of public convenience and necessity for the transportation of express between Taft and Maricopa and between Taft and Fellows and intermediate points.

Applicant began the operation of a stage line between Taft and Maricopa in 1915 and alleges that ever since that time he has carried express, though rates therefor were not filed until 1920 when a rate on "packages" was filed. In December 1917 applicant filed his Application No. 3316 asking for a certificate to operate "a stage line" between Taft and Maricopa. By Decision No. 4925 on this application it was dismissed on the ground that he had been "operating said stage service since about October 1915". Nothing was said about property transportation. When applicant sought, in 1931, to make a contract with Pacific Greyhound Lines, Inc. it was discovered that applicant had no valid right to transport property, (except baggage) over any of his lines. The instant application resulted.

In April 1927 applicant purchased by authority of this Commission ( Decision No. 18246) operating rights of R.C. Dear for the transportation of passengers and baggage between Taft and Fellows. This right did not include property transportation other than baggage although applicant has continued to transport

express matter and packages under his tariff filed with this Commission. The instant case also provides for authorization to continue express service between Taft and Fellows.

Applicant provides a schedule of rates for the transportation of express in Exhibit "B" attached to the application, the rates to apply between "any two points on the two lines" and graduated on a poundage block basis. Applicant will be required to file rates for each operation.

Other carriers affected by the application were advised of the pendency of this application and have, by letter to the Commission, withdrawn protest to the granting of the application. The carriers thus consenting are Derkum Stage Line, Pacific Freight Lines Incorporated, operating the service of Motor Freight Terminal Company, Besone Motor Express, Southern Pacific Company, Sunset Railway Company and Railway Express Agency, Incorporated.

The record indicates that applicant has in good faith carried express packages over his lines since 1915 under the belief that he had a valid right to. When it was discovered that such right had never been acquired and that he had never filed rates for such a service until 1920 and had not filed rates under his prescriptive rights he filed the instant application to perfect his authority. In view of the withdrawal of the protests of other carriers affected by the operation and in view of the fact that Sansome is conducting his service during a period of depression in the oil fields, making it difficult for any service to be maintained, we believe the application should be granted.

C.E. Sansome 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.

O R D E R

C. E. Sansome having made application to the Railroad Commission for a certificate of public convenience and necessity to transport express between Taft and Maricopa and intermediate points and between Taft and Fellows and intermediate points via the stage lines now operated by him between Taft and Maricopa and Taft and Fellows and this being a matter in which a public hearing is not deemed necessary,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment of service for the transportation of express between Taft and Maricopa and intermediate points and Taft and Fellows and intermediate points, and

IT IS HEREBY ORDERED that a certificate for such a service be and it is hereby granted to applicant C.E. Sansome provided, however, that such certificate shall be an enlargement and an extension of his present operative rights as defined by prescriptive filing of his tariff No. 1 effective December 20, 1917 and also by Decision No. 18246 on Application No. 13826 dated April 16, 1927 without consolidation of said rights, and not as new or separate rights; and provided, further, that such express right is limited to packages weighing not in excess of 100 pounds, subject to the following conditions:

1- Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.

2- 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.

3- 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.

4- 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.

5- 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 (20) days from the date hereof.

Dated at San Francisco, California, this 2<sup>nd</sup> day of

November 1931.

Leon Whiskey

M. J. Curran

M. B. Hanna

Fred G. Stewart

COMMISSIONERS.