

Decision No. 24602

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CITY TRANSIT COMPANY, a corporation,)
 of Modesto, California, to sell, and)
 WILLIS KLEINENBROICH to purchase an) Application No. 18022
 automobile passenger and freight line)
 operated between Modesto and Oakdale,)
 Stanislaus County, California.)

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

City Transit Company, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by the corporation to Willis Kleinenbroich of an operating right for an automotive service for the transportation of passengers and property between Modesto and Oakdale and certain intermediate points, and Willis Kleinenbroich 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 \$2250.00. No equipment is involved.

The operating right herein proposed to be transferred was one of many established by the Star Auto Stage Association by operation prior to May 1, 1917. This right authorizes the transportation of passengers, baggage and express, the latter being limited to packages weighing not more than 100 pounds each. C.R.C. No. 1 of Star Auto Stage Association, which established the right herein proposed to be transferred, shows, in addition to the phrase, "and intermediate points," the following fare points: Modesto, Clubhouse, Bald Eagle Ranch, Stony Bridge, Riverbank, Longworth and Oakdale. By Decision No. 7795, dated June 24, 1920,

and issued on Application No.5162, the Railroad Commission approved the transfer of the above described operating right to George Weisner and E. P. Michaels as individuals, requiring them to file tariffs and schedules covering the operation of automobile stage lines

* * * * From Modesto to Oakdale over the following route: Modesto to Oakdale, via Mc Henry road, Modesto to Bald Eagle Ranch and via the state highway, Bald Eagle Ranch to Oakdale

or to adopt the tariffs of Star Auto Stage Association covering said route.

On January 15, 1921, Weisner and Michaels filed a tariff quoting rates for passengers, baggage and express between Modesto and Oakdale and Bald Eagle Ranch, Riverbank and Longworth, without authority eliminating the restriction of 100 pounds on express shipments. By Decision No.15178, dated July 14, 1925, and issued on Application No.11362, the Commission authorized Weisner and Michaels to transfer their interests in the operating right to John S. Zuckerman, and the latter, in compliance with the Commission's order, adopted the Weisner and Michaels tariff and time schedule. Decision No.19317, dated February 6, 1928, and issued on Application No.14380, authorized Zuckerman to transfer the right to W. L. Cavanaugh who, by authority of Decision No.20489, dated November 16, 1928, issued on Application No.15169, transferred it to City Transit Company, applicant herein.

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.

Willis Kleinenbroich 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 City Transit Company shall immediately unite with applicant Willis Kleinenbroich in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant City Transit Company on the one hand withdrawing, and applicant Willis Kleinenbroich on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant City Transit Company shall immediately withdraw time schedules filed in its name with the Railroad Commission and applicant Willis Kleinenbroich shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant City Transit Company, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant City 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 Willis Kleinenbroich 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 21st day of March, 1932.

Ch. Lerner
Leon Kaufman
W. H. Linn
W. B. Linn
Fred G. Stewart
COMMISSIONERS.