

Decision No. 24690.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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| In the Matter of the Application of |) | Supplemental |
| HICKS AND ROGERS TRANSIT COMPANY |) | Application |
| for an order altering the restrictions |) | No. 11549. |
| imposed by Decision No. 16212. |) | |

BY THE COMMISSION:

O P I N I O N**ORIGINAL**

George W. Hicks operating under the name and style of Hicks and Rogers Transit Company has requested the Commission for an order altering and modifying restrictions upon the passenger motor line between Stockton and Sunnyside District as granted by Decision No. 16212 on Application No. 11549 dated March 17, 1926. This is a purely local passenger service operating from the Court House in Stockton northeasterly to Waterloo Road which is the main thoroughfare to the Sunnyside District with terminus at the Irrigation Canal. Under the certificate granted applicant is forbidden to transport any passengers between points south or east of the junction of Cherokee Lane and Waterloo Road.

By our Decision No. 24621 on Application No. 17823 dated March 28, 1932 Central California Traction Company was permitted to abandon service over that part of its rail system between Ophir Street and the junction of Cherokee Lane and Hiawatha Avenue, a distance of about .8 of a mile. This service has been maintained by a shuttle car connecting with the Ophir Street line of the Stockton Electric Railway at the intersection of Park and Ophir Streets. At the hearing of this matter before Examiner Kennedy on January 20, 1932 applicant in the instant proceeding was present and asserted his readiness to perform a service between the present restricted area and between the city limits of Stockton. This additional right will in a large measure accommodate the traffic which has heretofore used the shuttle car service and will still leave two

blocks of residential district intervening Cherokee Lane and Ophir Street which is regarded as tributary to Stockton Electric Railroad.

Applicant now is permitted to charge a ten cent fare for the present zone of service. The rail fare from points east and south of its present service by electric railway was 7 cents. Applicant agrees to have two zone fares retaining the ten cent fare of the farthest zone and the 7 cent fare for that portion added in lieu of the rail operation.

By amendment to the application, filed April 11, 1932, applicant Hicks asks the transfer of the interest of his former partner, George H. Rogers to Hicks. It appears from the amendment that Rogers died in February 1927 leaving only one heir, a sister Alta Stucker. In consideration of assuming and paying certain debts of Rogers, Alta Stucker transferred all interest in the operating right March 20, 1927, and since then Hicks has been sole owner thereof. This is supported by affidavit of Alta Stucker executed April 8, 1932 and attached to the amendment to the application. It appears, therefore, that the transfer executed in 1927 should be approved and the operating right transferred to Hicks.

This is a matter in which a public hearing appears not to be necessary. The application should be granted.

George W. Hicks 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

George W. Hicks having made application to the Railroad Commission to alter restrictions imposed by Decision No. 16212 on Application No. 11549 for a passenger motor operation between

Stockton and Sunnyside as granted originally,

IT IS HEREBY ORDERED that the route to be followed by applicant in the conduct of such service be and it is hereby amended to read as follows:

"Provided, however, that said stages will not stop for the picking up of passengers on the inbound trip, after passing the intersection of Cherokee Lane with Wilson Way, and on the outbound trip said stages shall not pickup any passengers to be discharged or let off, nor will said stages discharge or let off passengers on said outbound trip at any point before passing the intersection of Wilson Way and Cherokee Lane."

IT IS HEREBY FURTHER ORDERED that applicant shall file within thirty days from date hereof and on not less than ten days notice to the Commission and the public tariffs showing a one way fare of 7 cents between the City of Stockton and the intersection of Cherokee Lane and Waterloo Road and between the City of Stockton and points east of the intersection of Waterloo Road and Cherokee Lane, a one way fare of 10 cents.

IT IS HEREBY FURTHER ORDERED that the operating right herein, formerly owned by George W. Hicks and George E. Rogers, be and the same hereby is transferred to the sole ownership of George W. Hicks in conformity with agreement between Alta Stucker, surviving heir of George E. Rogers, deceased, made March 20, 1927, 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 Hicks shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by Hicks and Rogers which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of Hicks and Rogers or time schedules satisfactory to the Railroad Commission.

3- 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.

4- No vehicle may be operated by applicant George W. Hicks 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 18th day of

April 1932.

C. J. Seaver

Leon Whitell

M. A. Lee

M. B. Harris

Fred G. Stewart

COMMISSIONERS.