

LBM

Decision No. 24928

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ALBERT L. SCHNEIDER, OSCAR SCHNEIDER, FRANK SCHNEIDER and WALTER SCHNEIDER to sell and transfer, and JOEN SMALLEY to purchase and acquire the auto-stage lines operated by the former for the transportation of passengers, baggage and express, for compensation, between Sacramento and Jackson, California, and intermediate points, and between Jackson and San Andreas, California, and intermediate points, together with certain operative property; and of John Smalley for authority to issue his promissory notes.

ORIGINAL

Application No. 18207

BY THE COMMISSION:

OPINION AND ORDER

Albert L. Schneider, Oscar Schneider, Frank Schneider and Walter Schneider, operating under the name of Amador Stage Lines, have petitioned the Railroad Commission for an order approving the sale and transfer by them to John Smalley of operating rights and properties for an automotive service for the transportation of passengers and property between Sacramento and Jackson and intermediate points, and between Jackson and San Andreas and intermediate points, and John Smalley has petitioned for authority to purchase and acquire said operating rights and to hereafter operate thereunder, and to issue promissory notes as hereinafter set forth.

The operating rights herein proposed to be transferred were created by Decision No. 21121, dated May 17, 1929, in Application No. 15493, and Decision No. 22888, dated September 20, 1930, in Application No. ¹⁶⁷⁴⁹~~16779~~. The physical properties to be trans-

ferred along with the operative rights include two twenty-three passenger Garford Auto stages, one eighteen-passenger White Buda auto stage, one seventeen-passenger International auto stage, one fourteen-passenger Buda Pierce-Arrow auto stage and one Wisconsin motor. The cost of the properties is stated to have been \$28,885.60 and the depreciation estimated to have accrued to May 31, 1932, to be \$9,492.34, leaving a net figure for the equipment of \$19,393.26.

The consideration to be paid for the property herein proposed to be transferred is given at \$12,500.00. Of the purchase price the sum of \$2,000.00 is payable in cash upon execution of the agreement by and between the parties, \$1,000.00 on or before six months from date of the execution of the agreement, and \$9,500.00 within five years after such date. The \$1,000.00 payment will be evidenced by a six months six percent unsecured note, and the \$9,500.00 amount by an unsecured six percent note payable on or before five years after date of issue. Copies of both notes are attached to the application. The issue of the \$9,500.00 note will be authorized by the Commission. It will not be necessary to authorize the issue of the six months \$1,000.00 note.

We are of the opinion that this is a matter in which a public hearing is not necessary, that the application should be granted, and that the money, property or labor to be procured or paid for through the issue of the note herein authorized is reasonably required for the purpose specified herein.

John Smalley 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 Albert L. Schneider, Oscar Schneider, Frank Schneider and Walter Schneider be, and they hereby are, authorized to sell and transfer, and John Smalley be, and he hereby is, authorized to purchase and acquire the operative rights and properties referred to herein, such sale and transfer to be in accordance with the terms of an agreement dated June 8, 1932, a copy of which is attached to the application as Exhibit "A".

The authority herein granted to sell and transfer rights and properties is 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. Applicants Albert L. Schneider, Oscar Schneider, Frank Schneider and Walter Schneider shall immediately unite with applicant John Smalley in common supplement to the tariffs on file with the Commission covering service given under certificates herein authorized to be transferred, applicants Albert L. Schneider, Oscar Schneider, Frank Schneider and Walter Schneider on the one hand withdrawing and applicant John Smalley on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants Albert L. Schneider, Oscar Schneider, Frank Schneider and Walter Schneider shall immediately withdraw time schedules filed in their name with the Railroad Commission, and applicant John Smalley shall immediately file, in duplicate, in his name, time schedules covering service heretofore given by applicants Albert

L..Schneider, Oscar Schneider, Frank Schneider and Walter Schneider, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Albert L. Schneider, Oscar Schneider, Frank Schneider and Walter Schneider, 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 Smalley 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.

IT IS HEREBY FURTHER ORDERED, that John Smalley be, and he hereby is, authorized to issue on or before September 1, 1932, a note in the principal amount of \$9,500.00 payable on or before five years after date of issue, with interest at the rate of six percent per annum, for the purpose of paying in part the cost of the properties herein authorized to be transferred to him.

The authority herein granted to issue a note is subject to the following conditions:-

- 1-a. John Smalley shall keep such record of the issue of the note herein authorized as will enable him to file within thirty (30) days thereafter a verified report, as required by the Railroad Commission's

General Order No. 24, which order, insofar as applicable, is made a part of this order.

1-b. The authority herein granted will become effective when John Smalley has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five(\$25.00) Dollars.

DATED at San Francisco, California, this 27th day of June, 1932.

W. C. Seamy
Leon Whitely
W. A. Lee
W. B. Lewis
Fred G. Stewart
Commissioners.

Fee \$25⁰⁰/₁₀₀
RAILROAD COMMISSION
STATE OF CALIFORNIA
JUN 27 1932
W. C. Seamy
SECRETARY
Fee # 23746