

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Investigation on the Commission's own motion into the rates, rules, regulations, charges, classifications, contracts, practices and operations, or any of them, of and particularly as to the observance of Rule 6 of General Order No. 86 by JOHN MASSING, operating a common carrier automotive service between Palo Alto and United States Veterans Hospital No. 24 under the fictitious name and style of Massing Auto Service.

ORIGINAL

) Case No. 3305

In the Matter of the Application of JOHN MASSING to sell and Jennings B. Massing to purchase an automobile passenger line operated between Palo Alto Veteran's Hospital, Bellehaven City and Coleman Avenue, California.

) Application No. 18296

Frank Lee Crist for John Massing in Case 3305 and John Massing and Jennings B. Massing in Application 18296

CARR, Commissioner:

OPINION AND ORDER

John Massing, operating a bus service between Palo Alto and the United States Veterans' Hospital under rights granted by Decision 24010 in Application 17631 and Decision 24868 in Application 18193 was ordered to show cause why his rights should not be revoked. Officer Paul H. Bishop of the Palo Alto Police Department, Inspector N. E. Robotham of the Commission, and respondent were called as witnesses, the latter stating that he has not operated a bus personally since July 6, 1932, and that he does not intend to do so in the future.

The application requests authority to transfer the business to applicant's cousin pursuant to an agreement of sale

(Exhibit "A" to Application) for \$8,000, the equipment being valued at \$4,000 and "intangibles" at \$4,000. One thousand dollars is to be paid to Elizabeth G. Massing, the wife of John Massing, upon approval of the transfer, and the balance at \$100 monthly, the deferred balance to bear interest at six per cent per annum, payable monthly. Under section 52(b) of the Public Utilities Act this agreement is an evidence of indebtedness payable more than twelve months after its date. Authorization must be obtained prior to entering into an agreement of this nature, and when so advised at the hearing, applicants requested that authorization be granted.

Jennings B. Massing testified that in the future buses would be operated either by himself or an employe, and that John Massing would no longer be connected with the business.

Jennings B. Massing 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 transfer applied for is hereby authorized and that Jennings B. Massing is authorized to enter into an agreement of sale in substantially the same form as that attached to the application as Exhibit "A", subject to the following conditions:

1. Jennings B. Massing may not charge to his plant and equipment account more than the original cost of the equipment he is acquiring off set by an appropriate credit to depreciation reserve. Any sum paid in excess of such amount must be charged to Account No. 315, "Miscellaneous Charges to Income".

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 John Massing shall immediately unite with applicant Jennings B. Massing in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant John Massing on the one hand withdrawing, and applicant Jennings B. Massing on the other hand accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant John Massing shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Jennings B. Massing shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant John Massing, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant John Massing, 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 Jennings B. Massing 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.

7. The authority herein granted will become effective when applicant Jennings B. Massing has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is twenty-five dollars(\$25.00).

Case No. 3305 is hereby dismissed.

The foregoing Opinion and Order are hereby approved

and ordered filed as the Opinion and Order of the Railroad
Commission of the State of California.

Dated at San Francisco, California, this 29th day
of August, 1932.

Cl. Jensen
Leon Caldwell
W. A. Cunn
W. B. Harris
Frank G. Peterson
Commissioners

Fee # $25 \frac{00}{100}$
RAILROAD COMMISSION
STATE OF CALIFORNIA
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W. M. ...
Fee # 23923