

Decision No. 25287.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of JOHN SMALLEY, an individual, for authority (1) to consolidate and unify into one unified operative right the operative rights now held and operated by him covering the transportation by automobile of passengers, baggage, express, packages and parcels between Sacramento and San Andreas, Calif., via Mokelumne Hill, Calif., and between Stockton and Jackson, Calif., (2) to establish fares, rates, charges, rules and regulations and time schedules applicable to and governing said proposed consolidated and unified right, (3) to operate said consolidated and unified operative right as a consolidated and unified automobile stage service, and (4) to be permitted to continue the temporary suspension of service between Jackson and San Andreas, Calif., under the same conditions previously authorized by the Commission and still in effect.

ORIGINAL

Application
No. 18446

BY THE COMMISSION:

O P I N I O N

John Smalley, operating under certificate from the Railroad Commission automotive service for the transportation of persons and property between Jackson and Stockton, Jackson and Sacramento and San Andreas, has made application to merge and unite his rights and to operate through service between termini and intermediates and for the establishment of through rates, as shown in his Exhibit "A" attached to the application. Applicant alleges that the unification of his rights will result in improved operating conditions and consequent economies and more satisfactory service to the public.

The rights sought to be consolidated were created by Decision No. 7795, dated June 24, 1920, on Application No. 5162; by Decision No. 24928, dated June 27, 1932, on Application No. 18207, as modified by Decision No. 25146, dated September 6, 1932, on Application No. 18285.

Applicant proposes to operate the consolidated rights, divided into three divisions under the fictitious name Amador Stage Lines. Temporary suspension of the operation between Jackson and San Andreas, via Mokelumne Hill was authorized by Decision No. 24206, dated November 9, 1931, on Application No. 17712 and applicant requests that continuation of this suspension be authorized.

This is a matter in which we do not believe a hearing is necessary. The application will be granted.

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.

O R D E R

John Smalley having made application for a certificate of public convenience and necessity for the consolidation of the operating rights possessed by him by virtue of Decision No. 7795 on Application No. 5162 and Decision No. 24928 on Application No. 18207, as modified by Decisions Nos. 23146 on Application No. 18285 and No. 24206 on Application No. 17712,

IT IS HEREBY DECLARED that public convenience and necessity require the consolidation of the foregoing rights each with the other with the right of through service and through rates between all termini and intermediate points, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted to John Smalley, 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 triplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof, on not less than ten days' notice to the Commission and the public 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 date hereof, on not less than five (5) days' notice to the Commission and the public, time schedules, according to form provided in General Order No. 83, 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 24th day of October 1932.

C. A. Leary
Leon Whitely
M. A. Cunn
M. B. Harris
Fred G. Stewart
COMMISSIONERS.