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Decision No. 10/35

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of)
 F. A. RUPLEY to sell and R. D. BROWN)
 to purchase an automobile passenger)
 and freight line operated between)
 Auburn and Forest Hill.) = Application No. 7420

In the Matter of the Application of)
 F. A. RUPLEY to sell and M. C. LANG-)
 STAFF to purchase an automobile pas-)
 senger and freight line operated bet-)
 ween Colfax, Forest Hill and Michigan)
 Bluff.) = Application No. 7421

F. A. Rupley in propria persona
 R. D. Brown in propria persona in Application No. 7420
 M. C. Langstaff in propria persona in Application No. 7421.

BY THE COMMISSION,

O P I N I O N

In the two proceedings hereinunder consideration.

F. A. Rupley petitions the Commission for an order authorizing him to sell and R. D. Brown and M. C. Langstaff for an order authorizing them to purchase and operate two certain automobile passenger and freight lines together with a telephone system known as the Forest Hill Telephone Exchange.

A hearing on the above entitled applications was held before Examiner Satterwhite on February 11th, 1922, at Sacramento, at which time the matters were submitted and they are now ready for decision.

The property herein proposed to be transferred to R. D. Brown consists of the operative right authorizing the opera-

tion of an automobile stage line as a common carrier of passengers and freight between Auburn and Forest Hill, which operative right was acquired by applicant F. A. Rupley through operation in good faith prior to May 1st, 1917, the effective date of Chapter 213, Statutes of 1917, as amended, and continuously since that date.

In addition to the operative right applicant Rupley proposes to transfer to R. D. Brown one White Truck, a contract for the transportation of U. S. Mail between Auburn and McKeon, certain crops, together with a one-half interest in the Forest Hill Telephone Exchange. The total consideration to be paid by R. D. Brown for such property is given as the sum of \$3,500.00 of which amount \$1,500.00 represents the value of property proposed to be transferred and \$2,000.00 represents the claimed value of the operative right.

The property proposed to be transferred by F. A. Rupley to M. C. Langstaff consists of an operative right authorizing the operation of an automobile stage line as a common carrier of passengers and freight between Colfax, Forest Hill and Michigan Bluff, which operative right was secured by F. A. Rupley under Decision No. 7430, dated April 15, 1920.

In addition to the operative right applicant Rupley proposes to transfer to applicant Langstaff his interest in U. S. Mail contract for the transportation of mail from Colfax to Michigan Bluff, one Buick motor truck, two White motor trucks, and a seven-passenger touring car together with certain horses and a mule, wagons, harness, two horse drawn stages, two gasoline stations and a one-half interest in the Forest Hill Telephone Exchange.

The total consideration to be paid is given as the sum of \$8,400.00 of which amount \$6,400.00 represents the value of the physical properties proposed to be transferred and \$2,000.00 represents the claimed value of the operative right.

At the hearing in these two proceedings attention of the proposed purchasers was called to the fact that the Commission is not bound in rate fixing proceedings to use as a basis for establishing rates, the total or any amount paid for public utility property and that irrespective of the fact that the Commission issues its decision authorizing the transfer of public utility property at an amount agreed upon between the purchaser and seller, it is nevertheless not bound to, and does not, recognize such value in subsequent proceedings. It would appear in the present proceeding that both of the proposed purchasers intend to pay the sum of \$2,000.00 each for what might be termed "intangible property rights" which required little or no actual investment used or useful in the public service. The operative rights herein proposed to be transferred were granted by the State without cost and it will be distinctly understood in fixing rates that the Commission is not bound to recognize any amount whatsoever paid by the owner of a public utility stage line for the operative right authorizing its operation.

Inasmuch as applicants also propose to transfer a public utility telephone exchange in connection with the automobile stage lines hereunder consideration, it will be necessary that this order also include authority for such transfer.

Under Decision No. 9873, dated December 16, 1921, this Commission authorized M. C. and C. W. Langstaff to sell and Fred Ruple to purchase the Forest Hill Telephone Exchange for a consideration of \$750.00. Applicant gives the same consideration as the value of the telephone properties in connection with the present transfer.

Both of the proposed purchasers are experienced in the operation of public utilities and stated at the hearing that they intend to invest further sums in improving the present service.

Accordingly, it would appear that the public patronizing the utilities herein proposed to be transferred will receive as good, if not better, service, through such transfer, and we are of the opinion that the applications should be granted.

O R D E R

A hearing having been held upon the above entitled proceedings, evidence submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that F. A. Rupley be, and he hereby is authorized to sell and R. D. Brown be, and he hereby is authorized to purchase the operative right authorizing the operation of an automobile stage line as a common carrier of passengers and freight between Auburn and Forest Hill, subject to conditions as hereinafter specified.

IT IS HEREBY FURTHER ORDERED that F. A. Rupley be, and he hereby is authorized to sell and M. C. Langstaff be, and he hereby is authorized to purchase the operative right authorizing the operation of an automobile stage line engaged as a common carrier in the transportation of passengers and freight between Colfax, Forest Hill and Michigan Bluff, subject to conditions as hereinafter specified.

IT IS HEREBY FURTHER ORDERED that F. A. Rupley be, and he hereby is authorized to sell and M. C. Langstaff and R. D. Brown, a co-partnership be, and they hereby are authorized to purchase that certain telephone system located at Forest Hill and known as the Forest Hill Telephone Exchange, subject to conditions as hereinafter specified.

1. Applicant F. A. Rupley shall immediately cancel all tariff of rates and time schedules now on file with this Commission and applicants R. D. Brown and M. C. Langstaff shall immediately file, in duplicate, tariff of rates and time schedules covering the respective operative rights which they are herein authorized to acquire,

such tariff of rates and time schedules to be identical with the tariff of rates and time schedules covering their respective services as heretofore filed by F. A. Rupley.

2. That the rights and privileges herein authorized to be transferred 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.

3. That no vehicle may be operated by applicants Brown or Langstaff unless such vehicle is owned by them or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

4. The transfer herein authorized as regards Forest Hill Telephone Exchange shall be completed within a period of sixty (60) days from date hereof and within ninety (90) days from date hereof, a certified copy of the deed shall be filed with this Commission.

Dated at San Francisco, California, this 27th day of February, 1922.

H. P. Brundage
A. D. Loveland
J. W. Martin

Commissioners