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Decision No. 10 3120

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of  
C. N. CLARK and E. J. RAMSEY for the  
approval of a certain agreement for  
the transfer of a certificate of  
public convenience and necessity to  
operate an automobile stage line as  
a common carrier of freight and  
express between Fresno, Rolinda, Ker-  
man, Tranquility and San Joaquin,  
California, and intermediate points.

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ORIGINAL

Application No. 7619

Encell and Miller by James A. Miller  
for Applicant.

BY THE COMMISSION,

O P I N I O N

In this proceeding C. N. Clark has filed a joint ap-  
plication with E. J. Ramsey in which they petition the Railroad  
Commission for an order authorizing applicant Clark to sell and  
applicant Ramsey to purchase the operative right authorizing the  
operation of an automobile truck line as a common carrier of  
freight and express between Fresno, Rolinda, Kerman, Tranquility,  
and San Joaquin, and intermediate points.

The operative right herein proposed to be transferred  
was obtained by C. N. Clark under Decision No. 7647 dated May  
27th, 1920.

A hearing in the above entitled matter was held before  
Examiner Satterwhite on March 10th, 1922, at San Francisco at  
which time the matter was submitted and it is now ready for decision.

The agreement entered into between the applicants here-  
in provides for the transfer of the operative right only for a  
consideration of \$1,500.00; no equipment or other property is

proposed to be transferred. Applicant Clark testified that this service was inaugurated by him in June 1920 under a certificate heretofore issued by the Commission as above mentioned and that he has used in such service one 2½-ton Moreland truck, one trailer and one 2½-ton Nash truck; that his net receipts for the year 1921 were \$1,300.00 including depreciation.

Applicant Ramsey, the proposed purchaser, testified that he is at the present time the owner of a 3½-ton Stewart truck upon which he has made one payment of \$1,250.00 under a conditional sale agreement by which he is obliged to make twelve additional payments of \$200.00 each. The sum of \$1,500.00 to be paid for the operative right under this agreement is to be paid in full upon the approval by the Commission of the proposed transfer. The proposed purchaser testified that while he has checked over the receipts as shown by the books for a number of months while Clark operated this line, he was not acquainted with the rates charged by Clark as shown by tariffs on file with this Commission, nor had he investigated in any manner the operating expenses incurred by Clark in his operation of this line. He was of the opinion, however, that from his knowledge of the receipts and a review of his probable operating expenses, he would be able through the operation of this line to not only earn sufficient to meet payments due upon the truck which he has purchased, but also to pay off with interest the sum of \$1,500.00 which he has had to borrow for the purpose of purchasing the operating right proposed to be transferred.

Evidence submitted in this proceeding shows that one truck is not sufficient to adequately meet traffic demands between the points covered by the operative right proposed to be transferred, particularly during the summer months and that beginning with June of each year, it is necessary that two trucks be operated to properly

care for the business.

The proposed purchaser, E. J. Ramsey, testified that he had no funds of his own, but that his father had agreed to advance the \$1,500.00 which he proposed to pay for the operative right and also such further sums as may be required by him with the understanding that the earnings from his operation would provide sufficient funds to repay such loan with interest.

In view of the testimony of applicant Clark that his net earnings amounted to the sum of \$1,300.00 for the year 1921, it would appear that this amount in no way would meet payments required to be met upon the single truck purchased by Ramsey. Applicant Clark later with reference to his net earnings qualified his testimony with a statement that his operating expenses included not only actual operating expenses, wages, and depreciation, but also payments which he made upon a truck purchased after his original truck was destroyed by fire. Such payments on a truck cannot in any manner be considered as an operating expense, but are chargeable solely to capital account and it would appear that if earnings upon this line are sufficient to cover operating expenses, depreciation and also provide sufficient funds to make payments due upon equipment together with a reasonable return upon the investment, they are unduly high. The proposed purchaser not only expects to pay out of the rates collected, his operating expenses, depreciation and insurance, but to make payments due upon the equipment which he has purchased and also in addition thereto to pay off, with interest, the sum of \$1,500.00 which he proposes to pay for the operative right authorizing the operation of this line.

From the statement of operating revenues and expenses covering this route for the year 1921, we cannot see how the above obligations are to be met, nor how the shipping public in this territory shall receive adequate service through the transfer of this operative

right to the proposed purchaser who has at the present time not even in his own possession one motor truck fully paid for. The evidence showed, during the summer months, that the operation of two trucks is necessary to properly care for this service. Furthermore, though the operating income may be sufficient to meet operating expenses and payments due upon the truck already contracted for by the proposed purchaser, it is unjust and unreasonable that shippers using this service should also be obliged to pay rates which would provide sufficient funds not only for reasonable operating expenses and a return upon actual investment, but rates which would provide funds for the purchase of equipment and also for the purchase of an operative right sold for the sum of \$1,500.00 which operative right was originally granted by the people of the State of California without charge.

In view of the fact that a certificate of public convenience and necessity is granted by the people of the State of California without cost, this Commission shall grant no application for the transfer of an operative right in any proceeding where it appears that the payment of a substantial sum for the operative right by the proposed purchaser will so weaken his financial ability and resources that he will be unable thereafter to render an adequate service to the traveling or shipping public over the route covered by the operative right which he proposed to purchase. Furthermore, the written promise of a third party not directly interested in the public utility in question to aid financially, if necessary, the proposed purchaser in the operation of the automobile stage line which he proposes to purchase cannot in itself be considered adequate grounds for authorizing a transfer in the face of circumstances as herein above mentioned.

In view of the evidence in this proceeding, we are of the opinion that this application should be denied.

ORDER

Hearing having been held in the above entitled proceeding,  
evidence submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that the above entitled application  
be, and the same hereby is denied.

Dated at San Francisco, California, this 14<sup>th</sup> day of  
April, 1922.

*H. H. Boarding*

*Waring Martineau*

*H. H. Boarding*  
Commissioners