

Decision No. 40659

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of C.M. BUNDY to sell, and W.R. )  
SMITH to purchase an automobile ) Application No. 7811.  
passenger line operated between )  
Graham and Los Angeles, California.)

Harold L. Boynton, for R.E. Williams  
W.R. Smith, in propria persona  
C.M. Bundy, in propria persona.

ORIGINAL

BY THE COMMISSION:

OPINION

Applicants herein seek to transfer the operating rights held by the partnership of R.E. Williams, C.M. Bundy and W.R. Smith, operating under the fictitious name of the Graham Transportation Company, to W.R. Smith, individually, as provided by the amended application herein.

Public hearings were held by Examiner Williams at Los Angeles.

The original application provided for the transfer of Bundy's interest to Smith. This met opposition by Williams on the ground that the transfer proposed was not in pursuance of the partnership agreement and that such transfer would add to the financial responsibility of Williams by releasing Bundy. He also alleged that there had been no accounting in the partnership, which owed between \$1,200 and \$2,000.00.

It was also shown that a valuation of \$2,000.00 had been placed on the operating rights, and that applicant Smith proposed to pay Bundy one-third of such sum. The

operation of this Company, authorized under Decision No.10126, was begun only a few weeks before the date of hearing, and has not emerged from the pioneering stage and is not profitable, according to the testimony. The assumption that this right had any value was without justification.

As the first hearing was largely a disclosure of differences between partners, a continuance, requested by all parties, was taken. At the second hearing these differences had been adjusted and resulted in the filing of an amended application, which was, by agreement, substituted for the original, by which applicant Smith purchased the interest of both partners, paying Bundy \$250.00 for his one-third and Williams \$200.00. The value originally fixed on the operating right or any value, was eliminated. Applicant Smith assumes all the liabilities of the partnership, which is dissolved.

In view of the final agreement of all parties, and in view of the fact that applicant Smith seems willing and able to continue the service established, there is no longer reason why approval of the transfer should be withheld.

#### ORDER

IT IS HEREBY ORDERED BY THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA that the above entitled application be and the same is hereby granted, subject to the following conditions:

- I - That 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 for rate fixing or any other purpose, excepting the transfer herein authorized.

II - That the applicants R.E. Williams, O.M. Bundy and W.R. Smith, will be required to immediately cancel all tariffs and time schedules now on file with the Railroad Commission, such cancellation to be in accordance with the provisions of General Order No. 51 and other regulations of the Railroad Commission.

III- That the applicant W.R. Smith, will be required to immediately file tariff and time schedules, in duplicate, in his own name, or to adopt as his own the tariffs and time schedules heretofore filed by R.E. Williams, O.M. Bundy and W.R. Smith, all rates and time schedules to be identical with those filed by R.E. Williams, O.M. Bundy and W.R. Smith.

IV - 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.

V - That no vehicle may be operated by the applicant W.R. Smith, 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.

Dated at San Francisco, California, this 6<sup>th</sup>  
day of July, 1922.

*W.R. Smith*

*W.R. Smith*

*W.R. Smith*  
Commissioners.