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Decision No. 10945

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of)
C. J. RUPLEY to sell and C. W. GANOW)
to purchase an automobile passenger : Application No. 8005
and freight line, operated between)
Auburn and Georgetown, California.

BY THE COMMISSION,

SUPPLEMENTAL OPINION

In this proceeding C. J. Rupley applied jointly with C. W. Ganow for an order authorizing Rupley to sell and Ganow to purchase a certain automobile stage line operated between Auburn and Georgetown, California, and a decision issued on August 10th, 1922, being Decision No. 10838.

In the above entitled proceeding the application to transfer was denied on the ground that the Bill of Sale entered into between applicants was not made subject to the approval of the Commission and that under said transfer agreement Rupley had abandoned service and Ganow had operated this service since July 1st, 1922. The application to transfer was filed on June 30th, 1922 and contained a copy of the Agreement of Transfer, which Agreement contained a paragraph reading as follows:

"Now, Therefore, It is mutually understood and agreed that the party of the second part shall forthwith make application to the Railroad Commission of the State of California for an order authorizing the transfer of said property and rights from the party of the first part to the party of the second part."

On August 21, 1922. applicants through their attorney, filed a petition for rehearing calling the Commission's attention

to paragraph hereinabove quoted contained in the Agreement of Sale entered into between applicants herein.

In view of the fact that the application to transfer was filed prior to the time Mr. Ganow commenced operation of this line and in further view of the fact that service had not been entirely abandoned, but that Ganow merely continued the operation of this service pending action upon their application to transfer the certificate, we are of the opinion that Decision No. 10838 should be revoked and the application granted.

ORDER

IT IS HEREBY ORDERED that Decision No. 10838, dated August 10th, 1922, in Application No. 8005 be, and the same hereby is, revoked and annulled, and

IT IS HEREBY FURTHER ORDERED that application No. 8005 be, and the same hereby is granted, subject to the following conditions:

1. 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 of said property for rate fixing or any purpose other than the transfer herein authorized.

2. That applicant C. J. Rupley shall immediately cancel all tariff of rates and time schedules now on file with the Railroad Commission, such cancellation to be in accordance with the provisions of General Order No. 51 of the Railroad Commission.

3. That applicant C. W. Ganow shall immediately file, in duplicate, in his own name, or adopt as his own the tariff of rates and time schedules filed by applicant Rupley, all tariff of rates and time schedules to be identical with those as filed by applicant Rupley.

4. That the rights and privileges herein authorized to be transferred shall 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. That no vehicle may be operated by applicant Ganow 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 2nd day
of September, 1922.

H. B. ...
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Commissioners