HBH

Decision No. 11236.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the application of HARRY D. RILEY for an order granting permission to transfer and sell all his right, title, and interest in an automobile passenger transportation line, permission for the operation of which was granted on the 30th day of June, 1921, to operate between the intersection of South Los Angeles Street and Broad Street in the City of Anaheim and the beef packing plant of the Anaheim Beef Company north of said city of Anaheim, and all his right, title and interest in and to an automobile passenger transportation line, permission for which was granted by the Railroad Commission of the State of California, on the 30th day of June, 1921, to operate between the intersection of East Center Street and East Street in said city to the packing house of the Anaheim Co-operative Orange Association west of said city, and for permission to discontinue said service, and for permission to accept a chattel mortgage upon certain equipment used in the operation of said automobile passenger transportation line, as security for the payment to the said Harry D. Riley of the purchase price of all of his right, title, and interest in and to said automobile passenger transportation line,

AND

Application of THOMAS R. CARPENTER for an order granting permission to purchase and operate said automobile passenger line thereafter, and for permission to execute a chattel mortgage upon certain equipment used in the operation of said automobile passenger transportation line, as security for the payment of the purchase price thereof.

Application No.8144

Ames and McFadden, by Thos. L. McFadden, for Applicants.

BY THE COMMISSION:

O P I N I O N

Harry D. Riley has asked authority of the Railroad Commission to sell and Thomas R. Carpenter has asked permission to buy the operating right now held by Riley under Decision No. 9198, and in which he acquired full title under Decision No.9580. This operating right is for an automobile passenger service between the City of Anaheim and the plants of the Anaheim Beef Company and the Anaheim Co-operative Orange Association, and other points. The business is conducted under the fictitious name of the Anaheim Transit Company.

The consideration for the transfer is $5,000.00, of which $1,000.00 is stated to be for the operating right, and the remainder for equipment, consisting of two 15-passenger stages, one six and one seven years old. This consideration is payable $1,000.00 down and the remainder at the rate of $50.00 a month, including 8 per cent interest on deferred principal until paid out, secured by chattel mortgage on the equipment.

Applicant Riley admitted that the value of the equipment was not as great as stated in the application. Considering the age of the chassis in use $1,000.00 may be regarded as maximum value for both. The bodies cost $1,100.00 each, a year ago, and both may be estimated now at $2,000.00. The fair value of all the equipment is approximately $3,000.00. This leaves a remainder of $1,000.00 which must be regarded as premium upon the whole transaction, or an excessive value.

Considering the character of the equipment and the terms of the chattel mortgage, it is apparent that applicant Carpenter is undertaking a contract that imperils his future ability to conduct the service efficiently. The chassis, at least, is in a perilous stage of obsolescence, even if usable now. Renewal must be made ere long. This requires a capital investment and there was no testimony as to Carpenter's ability so to do. He has been a driver for Riley at a salary of $125.00 per month.

The terms of the mortgage require the payment of $50.00 per month, including interest on a principal charge of $4,000.00 at 8 per cent per annum. On such a basis, it would require about ten years to discharge the debt. Applicant Riley testified that the profits had not been over $50.00 a month, with no provision for depreciation nor return on investment. A statement of revenues and expenses filed by applicant Riley, under oath, shows the net over operating expenses, from January 1st to September 30th, 1928, to be $34.62 a month. Riley testified that additional revenue, probably $150.00 a month, is to be expected when certain industries resume operations. This exhibit upon analysis appears to be erroneous for the following reason:

The number of passengers therein reported for a period of nine months is 74,960 and the gross revenue received is expressed as $3,748.01. The present operator, Harry D. Riley, applicant herein, is entitled under his tariff to charge two classes of fares, -- one a 10¢ cash fare, the other a 6¢ fare being a commutation fare and applicable when a book of 25 rides is purchased. If all the fares collected by applicant were commutation fares at 6¢ each, the gross rates would result in an amount of $4,497.60 which it will be noted is $749.59 more than the total receipts as expressed in the applicant's exhibit of revenue and expense as filed herein. It is therefore proper to assume that the exhibit filed does not properly present the operating revenues stated to have been collected, as undoubtedly a considerable portion of the traffic of applicant Riley has been carried at the 10¢ cash fare.

The entire result of applicant Riley's operation after a year's experience shows a net profit of but $34.62 per month and such operation has been conducted with badly depreciated equipment of a character that must be considered practically obsolescent. There is no evidence in this proceeding giving any assurance that the future operation will result in increased or larger revenues and it follows that the value agreed upon by applicants in this proceeding, when such value requires the applicant who would hereafter undertake an operating line to assume an almost unsurmountable financial burden, would result in a serious doubt as to the ability of the purchasing applicant to continue adequate and efficient service to the public which he would be obligated to do should the desired transfer be granted.

We are of the opinion and hereby find as a fact, that the granting of this application under the terms and conditions of the agreement between the applicants and upon which they rely as evidencing the financial and other arrangements proposed and in support of their application, would be against public policy. If applicant proposing to purchase was unable to successfully carry out the purchase contract proposed by reason of revenue received from operation, and in addition make such financial investment as would be necessary to keep safe and adequate equipment on the line, his only recourse would be an application for increased rates or an application for authority to suspend and discontinue service. Under all the circumstances revealed by the evidence in this proceeding, no showing has been made justifying the Commission in granting the application.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and the Commission being now fully advised and basing its order on the finding of fact as set forth in the above opinion,

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

Dated at San Francisco, California this 14th day of November, 1932.

H. W. Brundige

Leon O. Whitsell

M. J. Benedict

Commissioners.