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Decision No. 9341

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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ORIGINAL

In the Matter of the Application of
V. W. MATHOU and F. LOPEZ, individually
as co-partners, and doing business under
the fictitious name of WHITE STAR AUTO
STAGE LINE, and S. H. DUNBAR, HENRY T.
CAMPBELL, JOS HELD, H. GAETA, C. M. BLABON,
and BASIL PERRY and FRED V. FISH, doing
business under the fictitious name of
PEERLESS STAGE ASSOCIATION for the approval
of certain agreement to transfer equipment
and operative rights in and to a trans-
portation company between the cities of
SAN JOSE and HOLLISTER, CALIFORNIA.

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Application No. 5741
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J. E. McCurdy for Applicants Mathew & Lopez and
Henry T. Campbell
Harry A. Encell for H. Gaeta, Applicant & Protestant
N. C. Folsom for Pickwick Stages, N.D. Protestant

BY THE COMMISSION,

O P I N I O N

In Application No. 5741, V. W. Mathew and F. Lopez, individual-
ly and as co-partners, doing business under the fictitious name of
White Star Auto Stage Line have made application to the Railroad Com -
mission for permission to transfer operative rights and equipment
used in the conduct of an automobile passenger stage line between
San Jose and Hollister to S. H. Dunbar, Henry T. Campbell, Jos Held,
H. Gaeta, C. M. Blabon, Basil Perry and Fred V. Fish, a co-partnership.

On November 15, 1920, by Decision No. 8331, the Railroad Com-
mission issued its ex parte order authorizing the transfer. Such
order provided that Applicants Mathew and Lopez should immediately
cancel tariffs of rates and time tables on file with the Railroad
Commission and that Applicants S. H. Dunbar, et al, should immediately
file their tariffs of rates and time schedule or adopt as their own

the tariffs and time schedules at the time filed by Mathew and Lopez.

Due to the fact that the operative rights of Mathew and Lopez were at the time under attack, no action was taken by any of the applicants towards complying with the conditions of the Commission's order authorizing such transfer and on June 30th, 1921, the Commission issued its order suspending Decision No. 8331 and setting the matter for hearing.

The hearing was held before Examiner Geary on July 15th, at which time the matter was submitted and is now ready for decision.

Prior to such hearing, an application for dismissal was filed by applicants V. W. Mathew and F. Lopez, through their attorney-in-fact, Henry F. Campbell, and by S. H. Dunbar and Jos. Held by Henry F. Campbell as their assignee and as one of the proposed purchasers.

The State Supreme Court held in Hanlon vs. Eshleman 169, Cal-200,- that the Railroad Commission's jurisdiction over transfers of public utility property was merely permissive and that if the owner did not desire to sell, the Railroad Commission had no jurisdiction to direct that he consummate a contract theretofore entered into. Accordingly, in this proceeding the Railroad Commission has no alternative other than to act upon the application for dismissal filed herein on July 5th, 1921.

O R D E R

A hearing having been held in the above-entitled application, the matter having been submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that Decision No. 8331, be and the same hereby is set aside and annulled, and

IT IS HEREBY FURTHER ORDERED that Application No. 5741 be, and the same hereby is dismissed.

Dated at San Francisco, California, this 10th day of August, 1921

H. P. ...
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Commissioners.