

Decision No. 26159

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
Wm. Frailey, doing business under the
name of Alturas-Surprise Valley Stage
Line, to sell and Ray Frailey to
purchase an automobile Passenger and
Freight Line operated between Alturas
and Fort Bidwell, California.

Application No. 18990.

BY THE COMMISSION:

OPINION AND ORDER

ORIGINAL

Wm. Frailey, doing business under the name of Alturas-Surprise Valley Stage Line, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Ray Frailey of operating rights for an automotive service for the transportation of passengers and property between Alturas and Fort Bidwell serving Cedarville and Lake City and Ray Frailey has petitioned for authority to purchase and acquire said operating rights and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$6000.00. Of this sum \$5900.00 is declared to be the value of equipment and \$100.00 is declared to be the value of intangibles.

Exhibit "A", a contract of sale between the parties dated December 1, 1932 shows that on December 10, 1932 \$200.00

was to be paid on the purchase price and a like amount payable thereafter in monthly installments with interest at the rate of six (6) per cent per annum.

The operating rights herein proposed to be transferred were created by Decision No. 15478 dated October 1, 1925 on Application No. 11061, Decision No. 15418 dated September 19, 1925 on Application No. 11673, Decision No. 15757 dated December 16, 1925 on Application No. 12133, Decision No. 18690 dated August 8, 1927 on Application No. 13191.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

Ray Frailey is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, subject to the following conditions:

1. 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. Applicant Ray Frailey shall immediately unite with applicant Wm. Frailey in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Wm. Frailey on the one hand withdrawing, and applicant Ray Frailey on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Wm. Frailey shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant Ray Frailey shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Wm. Frailey, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Wm. Frailey or time schedules satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. No vehicle may be operated by applicant Ray Frailey 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.

The authority herein granted will become effective when applicants have paid the minimum fee prescribed by Section 6 of the Auto Stage and Truck Transportation Act, which fee is \$25.00.

Dated at San Francisco, California, this 17th day of July, 1933.

C. L. Leary
Leon A. Bradley
W. J. Kim
W. B. Harris
W. H. Brown
COMMISSIONERS.

RAILROAD COMMISSION
Fee, \$25.00
100
[Signature]

3.
Fee # 30478