

Decision No. 16758

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
MOTOR TRANSIT COMPANY, a corporation,
to sell, and ROBERT P. KELLOGG to
purchase that certain automobile passenger
stage operating right between Santa Ana
and Laguna Beach, California.

)
)
) Application
No. 19272

BY THE COMMISSION -

OPINION and ORDER

Motor Transit Company, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to Robert P. Kellogg of an operating right for an automotive service for the transportation of passengers and property between Santa Ana and Laguna Beach, via Newport Beach, and Robert P. Kellogg has petitioned for authority to purchase and acquire said operating right 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 \$1200.00. Of this sum \$200.00 is declared to be the value of equipment and \$1000.00 is declared to be the value of intangibles.

The operative right herein proposed to be transferred was created by Decision No. 16725, dated May 13, 1926, on Application No. 12812, and by Decision No. 23070, dated November 13, 1930, on Application No. 16665.

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.

Robert P. Kellogg 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 right 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 Motor Transit Company shall immediately unite with applicant Robert P. Kellogg in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Motor Transit Company on the one hand withdrawing, and applicant Robert P. Kellogg on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Motor Transit Company shall immediately withdraw time schedules filed in its name with the Railroad Commission, and applicant Robert P. Kellogg shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Motor Transit Company, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Motor Transit Company, 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 Robert P. Kellogg 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 29th day of January, 1934.

O. L. Lundy
Leon C. Whitely
W. B. Lundy
W. B. Lundy
2. W. B. Lundy
COMMISSIONERS.