

Decision No. 26898

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
GEORGE W. HICKS To sell, and ARTHUR NEWTON)
and ESKDALE NEWTON to purchase an automobile) Application
bus line operated between Stockton and) No. 19361
Sunnyside, California.)

BY THE COMMISSION -

OPINION and ORDER

ORIGINAL

George W. Hicks has petitioned the Railroad Commission for an order approving the sale and transfer by him to Arthur Newton and Eskdale Newton, co-partners, of an operating right for an automotive service for the transportation of passengers between Stockton and Sunnyside, and Arthur Newton and Eskdale Newton have 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 \$2500.00. Of this sum \$500.00 is declared to be the value of equipment and \$2000.00 is declared to be the value of intangibles. As the contract calls for payments over a period of more than twelve (12) months, the statutory fee will be required.

The operating right herein proposed to be transferred was created by Decisions Nos. 16212, dated March 17, 1926, and 24690, dated April 18, 1932, on Application No. 11549.

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.

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Arthur Newton and Eskdale Newton are 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 George W. Hicks shall immediately unite with applicants Arthur Newton and Eskdale Newton in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant George W. Hicks on the one hand withdrawing, and applicants Arthur Newton and Eskdale Newton on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant George W. Hicks shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicants Arthur Newton and Eskdale Newton shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicant George W. Hicks, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant George W. Hicks, 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 applicants Arthur Newton and Eskdale Newton unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. This order shall not become effective until there has been paid to the Railroad Commission the fee required by the Public Utilities Act and the Auto Truck Transportation Act to be paid on all evidences of indebtedness extending over a period of one year, in this instance the minimum fee of \$25.00.

Dated at San Francisco, California, this 26th day of
March, 1934.

Leon Whiteley
W. G. Linn
M. B. Harris
W. H. ...
COMMISSIONERS.

Fee \$25⁰⁰/₁₀₀
RAILROAD COMMISSION
STATE OF CALIFORNIA
APR 4 1934
W. H. ...

Fee # 30000