

Decision No. 27617

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PENINSULAR RAILWAY COMPANY for authority
to sell, and F. B. PEARSON for authority
to acquire and operate the operative
rights for transportation of passengers
by passenger stage between Palo Alto and
San Jose and intermediate points, now
conducted by Peninsular Railway Company
under authority of Decision No.25694,
Application No.19632.

APPLICANTS

) Application
No.19698

E. W. Hobbs, for Applicants.

Arnold Rumwell, City Attorney, for City of
Palo Alto, interested party.

Margaret Welliever, Secretary, for Palo Alto
Chamber of Commerce.

BY THE COMMISSION -

O P I N I O N

Peninsular Railway Company, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to Floyd B. Pearson of an operating right for an automotive service for the transportation of passengers between San Jose and Palo Alto and intermediate points, and Floyd B. Pearson 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 \$50.00, which sum is declared to be the value of intangibles, No equipment is to be transferred.

Public hearing herein was conducted by Examiner Williams at Palo Alto.

Applicant Pearson now operates under authority of this Commission passenger bus service in Palo Alto and environs exterior to the city limits. His minimum fare is ten cents. Applicant Peninsular Railway operates in the City of Palo Alto between the Southern Pacific station and the Mayfield district within the city. Its city fare is 6 cents. Applicant Pearson seeks to increase this fare to the level of his minimum. For this reason hearing was held and municipal and civic bodies notified.

Pearson intends to maintain separate operation of the San Jose-Palo Alto line which he seeks to acquire and will not issue transfers to or from it, nor is it to be consolidated with his other operations. An exhibit introduced by Peninsular Railway shows that for a period of twenty days (November 21st to October 10th, inclusive) 119 passengers were carried at the 6-cent fare. For the same period the increase at a 10 cent fare would have added \$4.76 to revenue. Peninsular Railway operates five schedules each way week days and three on Sundays. They serve Meridian Corners, Cupertino, Loyola, Springer Road and Los Altos and other intermediate points. Applicant Pearson intends to maintain these schedules, providing new equipment, and at the existing rates, including the increase sought.

The City of Palo Alto, through its City Attorney, Arnold Runwell, and the Palo Alto Chamber of Commerce, through its Secretary, Margaret Williever, appeared and requested that the application be granted. The only request by them was that Pearson use the state highway as his route to Mayfield, to which he consented.

The operating right herein proposed to be transferred was created by Decision No.25694, dated March 7, 1933, on Application No.12632.

Floyd B. Pearson 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.

O R D E R

IT IS HEREBY ORDERED that the above entitled application be and the same is hereby granted, including the increase to 10 cents of the one way fare between Southern Pacific station and Mayfield, 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 Peninsular Railway Company shall within twenty (20) days after the effective date of the order unite with applicant Floyd B. Pearson in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Peninsular Railway Company on the one hand withdrawing, and applicant Floyd B. Pearson on the other hand accepting and establishing such tariffs, including increase of one way fare herein authorized, and all effective supplements thereto.
3. Applicant Peninsular Railway Company shall within twenty (20) days after the effective date of the order withdraw time schedules filed in its name with the Railroad Commission, and applicant Floyd B. Pearson shall within twenty (20) days after the effective date of the order file, in duplicate, in his own name time schedules covering service heretofore given by applicant Peninsular Railway 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 Floyd B. Pearson 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.

6. The authority granted to sell and transfer the right and/or property shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission

Dated at San Francisco, California, this 22nd day of
December, 1934.

Leon A. Whiteley

W. H. Carr

W. B. Harris

Walter T. Brown

Frank R. DeWitt

COMMISSIONERS.