

Decision No. 27905

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
DEATH VALLEY TRANSPORTATION COMPANY  
to sell, and TANNER MOTOR TOURS, LTD.,  
to purchase certain automobile passenger  
franchise operative rights between Death  
Valley Junction and Furnace Creek Inn and  
other points in and adjacent to Death  
Valley, Inyo county, California, and between  
Barstow and Baker, California. ) Application  
No. 19915

BY THE COMMISSION -

OPINION

**ORIGINAL**

Death Valley Transportation Company, a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to Tanner Motor Tours, Ltd. of operating rights for an automotive service for the transportation of passengers and baggage between Death Valley Junction and Furnace Creek Inn and other points in and adjacent to Death Valley over and along certain designated routes and between Barstow and Baker, - operation to be seasonal from November 1st to April 30th, and subject to the restriction that no local passengers are to be carried -- service to be "on call," and Tanner Motor Tours, Ltd. 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 \$661.46, which sum is declared to be the value of intangibles. No equipment is to be transferred.

The operating rights herein proposed to be transferred were created by Decision No.24179, dated November 2, 1931, on Application No.17746, Decision No.24244, dated November 23, 1931, on Application No.17776, and Decision No.25364, dated November 17, 1932, on Application No.18506.

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.

Tanner Motor Tours, Ltd. 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.

#### ORDER

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 Death Valley Transportation Company shall within twenty (20) days after the effective date of the order unite with applicant Tanner Motor Tours, Ltd. in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Death Valley Transportation Company on the one hand withdrawing, and applicant Tanner Motor Tours, Ltd. on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Death Valley Transportation 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 Tanner Motor Tours, Ltd. shall within twenty (20) days after the effective date of the order file, in duplicate, in its own name time schedules covering service heretofore given by applicant Death Valley Transportation Company, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Death Valley Transportation 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 Tanner Motor Tours, Ltd. unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. The authority granted to sell and transfer the rights 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 21<sup>st</sup> day of April, 1935.

Leon White

M. A. Carr

M. B. Lavin

W. H. H. H. H.

Frank R. DeWitt

COMMISSIONERS