

Decision No. 28225

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
EDWARD BAHLER)
to cancel passenger operative rights)
and to sell to Bahler Transportation,)
Inc., an automobile truck line in)
Southern California for the issuance)
of securities.)

ORIGINAL

Application No. 20129

Phil Jacobson, for applicants.

BY THE COMMISSION:

O P I N I O N

This is an application for an order authorizing Edward Bahler to cancel his operating rights permitting the transportation of passengers between Swartout Big Pines and San Bernardino, and to transfer to Bahler Transportation, Inc. his certificates of public convenience and necessity permitting the transportation of freight, as hereinafter set forth, and authorizing Bahler Transportation, Inc. to issue ten shares of its no par value capital stock.

It appears that Edward Bahler heretofore had been granted a certificate of public convenience and necessity by Decision No. 23290, dated January 19, 1931, in Application No. 16692, permitting the operation of an automobile transportation service for the transportation, as a common carrier, of milk, cream and dairy products, and for the back haul of dairy supplies and empty containers between Los Angeles, Pasadena, El Monte and San Bernardino on the one hand, and Riverside, Colton, San Bernardino, Redlands, Yucaipa, Upland, Arlington, Pedley, Devore, Highland and intermediate points, on the other hand, serving only the dairies located in the territory and

along the pickup routes specified in the decision, and also had been authorized by Decision No. 23702, dated May 18, 1931, in Application No. 17358, to acquire a certificate of public convenience and necessity permitting the operation of an automotive service for the transportation of passengers and property between San Bernardino and Swartout (Big Pines Los Angeles County Park) and the intermediate points of Lime Quarry, Clydes and Wrightwood.

The testimony shows that the passenger service acquired by Edward Bahler under the authority granted by said Decision No. 23702, has been conducted on the freight vehicles when passengers were available but that during the past two years the number so transported has not exceeded one passenger a month. The annual reports filed by the operator show total revenues from transportation of passengers for 1933 and 1934 at only \$41.50, and it is alleged that the cost of maintaining the service, including insurance, does not justify its continuance, it being reported that there are now other existing facilities for the movement of any passengers between the points specified in the certificate.

Applicant now desires permission to discontinue his passenger operations and to transfer his freight business to a corporation named Bahler Transportation, Inc. which he has caused to be organized. The new corporation has an authorized capital stock of 500 shares without par value, of which it proposes to issue at this time ten shares in consideration for the transfer of the operating rights.

No one appeared to protest the discontinuance of the passenger business nor the transfer of the certificates of convenience and necessity. In authorizing the transfer of the certificates of public convenience and necessity to Bahler Transportation, Inc., the Commission wishes to put said Bahler Transportation, Inc. 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 the 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 in the number of rights which may be given.

ORDER

The Commission having been asked to authorize Edward Bahler to discontinue passenger service, to authorize him to transfer certificates of public convenience and necessity to Bahler Transportation Inc. and authorizing said Bahler Transportation, Inc. to issue ten shares of its common capital stock, a public hearing having been held before Examiner Fankhauser and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of the ten shares of stock is reasonably required for the purpose specified herein, which purpose is not in whole or in part reasonably chargeable to operating expense or to income, and that this application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED that-

1. Edward Bahler may discontinue the passenger transportation service heretofore conducted by him under the certificate of public convenience and necessity heretofore acquired by him pursuant to authority granted by Decision No. 23702, dated May 18, 1931.

2. Edward Bahler may transfer to Bahler Transportation, Inc. the certificate of public convenience and necessity granted by De-

cision No. 23290, dated January 19, 1931 and Decision No. 23702, dated May 18, 1931, permitting the transportation of property, as referred to herein.

3. Bahler Transportation, Inc. may issue on or before December 31, 1935, not exceeding ten shares of its no par value capital stock in consideration of the transfer of said certificates.

4. The authority herein granted is subject to the following conditions:-

- (a) Edward Bahler shall file with the Commission in triplicate a supplement to the tariffs on file in his name, cancelling the rates and charges for the transportation of passengers.
- (b) Edward Bahler and Bahler Transportation, Inc., a corporation, applicants herein, shall join in a common supplement, to be filed in triplicate, the former withdrawing from the tariffs filed by him with the Commission naming rates and charges for the transportation of property, and the latter adopting and establishing as its own such tariffs and all effective supplements thereto.
- (c) Bahler Transportation, Inc. shall file, in duplicate, time schedules covering its service under the operative rights herein authorized to be transferred to it, such time schedules to be identical with those heretofore filed by Edward Bahler, or time schedules satisfactory to the Commission.
- (d) The rights and privileges herein authorized to be transferred may not hereafter be sold, transferred, leased nor assigned, nor service thereunder discontinued,

unless the written consent of the Railroad Commission has first been secured.

- (e) No vehicle may be operated by Bahler Transportation, Inc. under the authority herein granted, unless such vehicle is owned by it or is leased by it under a contract or agreement on a basis satisfactory to the Commission.
- (f) Bahler Transportation, Inc. shall keep such record of the issue of the stock herein authorized as will enable it to file within thirty (30) days thereafter, a verified report such as is required by the Railroad Commission's General Order No. 24, which order insofar as applicable, is made a part of this order.
- (g) The authority hereinabove granted will become effective twenty (20) days from the date hereof.

DATED at San Francisco, California, this 16 day of September, 1935.

Leon A. White

Mr. J. A. ...

M. B. Harris

Frank R. White

Commissioners.