

Decision No. 28303

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
HELSLEY AND LITRELL TRUCK LINE to
sell, and GEORGE S. BUTLER to purchase
an automotive service for the trans-
portation of property between Eureka
and Crescent City and all intermediate
points via the main highway through
Klamath, Orick and Crannel Junction.)
Application No. 20190.

BY THE COMMISSION:

O P I N I O N

Applicants M. R. Helsley and George S. Butler, doing business under the firm name and style Helsley and Littrell Truck Line, have petitioned the Railroad Commission for an order approving the sale and transfer by them to George S. Butler of the undivided one-half partnership interest of M. R. Helsley in an operating right for an automotive service for the transportation of property between Crescent City and Eureka and intermediate points, and George S. Butler has petitioned for authority to purchase and acquire the undivided one-half partnership interest of M. R. Helsley in said operating right and to hereafter operate thereunder as sole owner, 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 \$5,500.00. Of this sum \$2,000.00 is declared to be the value of equipment and \$3,500.00 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was created by Decision No. 22166 dated February 27, 1930 in Application No. 16079 which declared:

"That public convenience and necessity require the operation by Pickwick Stages System, a corporation, of an automotive service for the transportation of freight between Crescent City and Eureka via the main highway through Klamath, Orick and Crannell Junction, serving said termini and all intermediate points."

Decision No. 22469 dated May 23, 1930 in Application No. 16490 authorized Pacific Greyhound Lines, Inc., to acquire from Pickwick Stages System the right created by Decision No. 22166. Decision No. 22596 dated June 30, 1930 in Application No. 16632 authorized M. R. Helsley and I. P. Littrell to acquire said described operating right from Pacific Greyhound Lines, Inc. Decision No. 28038 dated June 17, 1935 in Application No. 19985 authorized George S. Butler to acquire the undivided one-half interest of I. P. Littrell which established the co-partnership of Helsley & Butler the applicants herein.

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.

Applicant George S. Butler 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, 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. Applicants Helsley & Butler shall within twenty (20) days after the effective date of the order herein unite with applicant Butler in common supplement to the tariffs on file with the Commission covering service given under the certificate herein authorized to be transferred, applicants Helsley & Butler on the one hand withdrawing, and applicant Butler on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants Helsley & Butler shall within twenty (20) days after the effective date of the order withdraw time schedules filed in their name with the Railroad Commission and applicant Butler 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 applicants Helsley & Butler, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Helsley & Butler, 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 obtained.
5. No vehicle may be operated by applicant Butler 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 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 28th day of October, 1935.

M. A. Cunn

M. B. Lavin

W. H. ...

W. H. ...

COMMISSIONERS