

Decision No. 30255

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
J. M. Reese to sell and Carl C. Allen)
to purchase an automobile (Passenger)
Line) operated between Fresno, Calwa)
and Sanger and Fresno and Del Rey,)
California.)

Application No. 21573

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Carl C. Allen and J. M. Reese, co-partners, doing business as Allen and Reese Stages, have petitioned the Commission for an order approving the sale and transfer by them to Carl C. Allen of all their operating rights for the automotive transportation of passengers and express as a common carrier between Fresno and Sanger and between Fresno and Del Rey; and Carl C. Allen 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 \$500.

The operating rights proposed to be transferred are separate operating rights, the one between Fresno and Sanger being a prescriptive operating right for the transportation of passengers established by Carl C. Allen and J. M. Reese by operation prior to May 1, 1937, the right for the transportation of express between Fresno and Sanger was created by Decision No. 19737, dated May 9, 1928, on Application No. 14414 and the right between Fresno and Del Rey was created by Decision No. 11900, dated April 5, 1923, on Application No. 8861.

Carl C. Allen 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 for any purpose other than the transfer herein authorized.
2. Applicants Carl C. Allen and J. M. Reese shall within twenty (20) days after the effective date of the order herein unite with applicant Carl C. Allen in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicants Carl C. Allen and J. M. Reese withdrawing and applicant Carl C. Allen accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants Carl C. Allen and J. M. Reese shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in their names with the Railroad Commission and applicant Carl C. Allen shall within twenty (20) days after the effective date of the order herein file, in duplicate, in his own name time schedules covering service heretofore given by applicants Carl C. Allen and J. M. Reese which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicants Carl C. Allen and J. M. Reese 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 Carl C. Allen 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 herein 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.

The effective date of this order shall be January 1, 1938.

Dated at San Francisco, California, this 22nd day of November, 1937.

Walter M. M. M.
Leon A. Whiteley

R. B. Swartz

COMMISSIONERS.