

Decision No. 30711

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
E. W. MANOR, as Executor of the)
Last Will of J. A. Manor, Deceased,)
to sell, and GEORGE KISTER to pur-)
chase, an automobile passenger and)
package line, operated between)
Colusa and Williams, California.)

Application No. 21751

BY THE COMMISSION:

ORIGINAL

O P I N I O N

By this application E. W. Manor, as executor of the last will of J. A. Manor, deceased, and George Kister, as purchaser at a court sale, request that the Railroad Commission give its approval to a court sale of an operating right made in a probate proceeding. The order confirming such sale specifically provides that Commission approval should be obtained.

The order confirming the sale, marked Exhibit "A," and attached to and made a part of the application, sets forth the purchase price as \$225 which is declared to be the value of the intangibles. No equipment is involved.

The operating right referred to is a prescriptive operating right for the transportation of passengers and packages between Williams and Colusa, established by good faith operations prior to May 1, 1917, and continuously thereafter, as evidenced by tariffs filed by J. A. Manor, doing business as Pioneer Auto Stage Lines.

This appears to be a matter in which a public hearing is not necessary. The application will be granted.

George Kister 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 ORDERED that approval of the court sale, as contemplated by the order confirming the sale, is granted subject to the following conditions:

1. The consideration paid for the operative right involved herein 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 approval herein granted.
2. Applicant E. W. Manor, as executor of the estate of J. A. Manor, shall within twenty (20) days after the effective date of the order herein unite with applicant George Kister in common supplement to the tariffs on file with the Commission, covering service given under the operative right herein involved, applicant E. W. Manor, executor, withdrawing and applicant George Kister accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant E. W. Manor, Executor, shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in the name of J. A. Manor with the Railroad Commission and applicant George Kister 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 under the operative right involved which time schedules shall be identical with the time schedules now on file with the Railroad Commission 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 George Kister 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 approval herein granted 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 the date hereof.

Dated at San Francisco, California, this 21st day of
March, 1938.

[Signature]
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COMMISSIONERS.