

Decision No. 31482

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
LESLIE T. ALWARD,  
an individual, and Leslie T. Alward,  
H. V. Thatcher and E.H.Lowden, co-  
partners, d.b.a. SHASTA DAM TRANSIT  
COMPANY, for authority to transfer  
those certain operative rights now  
held by LESLIE T. ALWARD, an individual,  
under Decision No. 31312 on Applica-  
tion No. 19250, to the said co-partner-  
ship composed of Leslie T. Alward, H.V.  
Thatcher, and E.H.Lowden, d.b.a. SHASTA  
DAM TRANSIT COMPANY.

ORIGINAL

Application No. 22360

BY THE COMMISSION:

OPINION AND ORDER

Subject to the conditions set forth in the order in Decision No. 31312, dated September 26, 1938, in Application No. 19250, the Commission granted to Leslie T. Alward a certificate of public convenience and necessity to establish and operate an automotive service for the transportation of passengers and their baggage as a passenger stage corporation, as such is defined in Section 2-1/4 of the Public Utilities Act and as a highway common carrier, as such is defined in Section 2-3/4 of the Public Utilities Act for the transportation of property between Redding and Kennett and all intermediate points, over and along the following routes:-

(1) Via U. S. Highway No. 99 to junction of Coram Road; thence via Coram Road to junction of Kennett Road; thence via Kennett Road to Kennett direct or via Shasta Dam.

(2) Via U. S. Highway No. 99 to junction of Kennett Road; thence via Kennett Road to Kennett direct or via Shasta Dam.

On October 8, 1938, Leslie T. Alward filed with the Commission his written acceptance of the certificate of public convenience and necessity granted him by the order in said Decision No. 31312, dated

September 26, 1938.

In the instant application applicants asked that said certificate of public convenience and necessity, subject to all of the terms and conditions of said order in said Decision No. 31312, dated September 26, 1938, be transferred to Leslie T. Alward, H. V. Thatcher and E.H.Lowden, co-partners, doing business as Shasta Dam Transit Company. It is believed that the transportation business, which may be conducted under the certificate of public convenience and necessity mentioned herein, can be more effectively handled by the co-partnership than by Leslie T. Alward as an individual.

Sacramento-Corning Freight Lines, Ltd.; Oregon-California Fast Freight, J. A. Gritsh, owner; Southern Pacific Company; and Pacific Motor Trucking Company have filed with the Commission a statement reading as follows:-

"We, the undersigned, being familiar with the purposes to be served by the transfer of operating rights sought by the above entitled application, hereby state that we, and each of us have no objection to the granting of the said application without hearing".

The Commission has considered the request of applicants in the above entitled matter and believes that such request should be granted. It desires, however, to place Leslie T. Alward, H. V. Thatcher and E. H. Lowden, co-partners, doing business as Shasta Dam Transit Company, 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 or routes. 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.

Good cause appearing therefor,

IT IS HEREBY ORDERED that the certificate of public convenience and necessity granted to Leslie T. Alward by the order in said decision

No. 31312, dated September 26, 1938, may, by said Leslie T. Alward, be transferred to Leslie T. Alward, H. V. Thatcher and E. H. Lowden, doing business as Shasta Dam Transit Company, said transfer to be subject to the following conditions:-

1. Leslie T. Alward, H. V. Thatcher and E. H. Lowden, doing business as Shasta Dam Transit Company, shall commence the service authorized by the order in said Decision No. 31312, dated September 26, 1938, on or before February 12, 1939, and shall file in triplicate, and concurrently make effective on not less than ten(10) days notice to the Commission and to the public, a tariff or tariffs constructed in accordance with the Commission's general orders and contain rates and rules which in volume and effect shall be identical with the rates and rules shown in the exhibit attached to Application No. 19250, insofar as they conform to the said certificate granted by said order in said Decision No. 31312, dated September 26, 1938, or rates and rules satisfactory to the Railroad Commission.
2. Leslie T. Alward, H. V. Thatcher and E. H. Lowden, doing business as Shasta Dam Transit Company, shall file in duplicate and make effective, on or before February 12, 1939, on not less than five (5) days notice to the Railroad Commission and to the public, a time schedule or time schedules, covering the service authorized by said order in said Decision No. 31312 dated September 26, 1938 in a form satisfactory to the Railroad Commission.
3. The rights and privileges herein authorized to be transferred may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission

to such discontinuance, sale, lease, transfer or assignment has first been obtained.

4. No vehicle may be operated by Leslie T. Alward, H. V. Thatcher and E. H. Lowden, doing business as Shasta Dam Transit Company, unless such vehicle is owned by said Leslie T. Alward, H. V. Thatcher and E. H. Lowden, doing business as Shasta Dam Transit Company, or is leased by said Leslie T. Alward, H. V. Thatcher and E. H. Lowden, doing business as Shasta Dam Transit Company, under a contract or agreement on a basis satisfactory to the Railroad Commission.
5. Leslie T. Alward, H. V. Thatcher and E. H. Lowden, doing business as Shasta Dam Transit Company, shall, prior to the commencement of service authorized herein, and continuously thereafter, comply with all the provisions of this Commission's General Order No. 91.
6. Leslie T. Alward, H. V. Thatcher and E. H. Lowden, doing business as Shasta Dam Transit Company, shall, upon request being made by any or all common carriers serving Redding, enter into a joint rate agreement with such carriers and participate with such carriers in the publication and filing with the Commission of tariffs, naming such joint rates as may be agreed upon. In the event of the failure to agree upon the volume of the joint rates, or the division of revenues between carriers under such joint rates, the matter shall be referred to the Commission for settlement.
7. The above conditions shall take the place of and be in lieu of the conditions of said order in said Decision No. 31312, dated September 26, 1938 in said Application No. 19250.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall become effective upon the date hereof.

DATED at San Francisco, California, this 20th day of November, 1938.

Raymond  
Seon

Ray Riley

COMMISSIONERS.