

Decision No. 31805

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of  
T. J. HENDERSON to sell and FRANK J.  
KNAPP and JOHN P. DEMETER to purchase  
an automobile passenger and express  
line operated between Redwood City,  
California, and Canyon Sanitarium and  
Emerald Lake, California.

} Application No. 22598

BY THE COMMISSION:

### O P I N I O N

T. J. Henderson, operating under the fictitious name and style of Redwood City - Emerald Lake Bus Line, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Frank J. Knapp and John P. Demeter of an operating right for the automotive transportation as a common carrier of passengers between Redwood City, Canyon Sanitarium and Emerald Lake and intermediate points; and Frank J. Knapp and John P. Demeter have petitioned for authority to purchase and acquire said operating right 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. (1)

The consideration to be paid for the property herein proposed to be transferred is given as \$2700. Of this sum \$1700 is alleged by the applicant to be the value of the equipment and \$1000 is alleged to be the value of the intangibles.

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1. Applicants herein erroneously refer to the existence of a right on the part of Henderson to transport express. This right was abandoned under authority of Decision No. 30918, hence the order of transfer herein conveys a right to transport passengers only.

The operating right herein proposed to be transferred was created by Decision No. 23650, dated May 4, 1931, on Application No. 17319 and Decision No. 26524, dated February 13, 1937 in Case No. 4197, and Decision No. 30918, dated May 31, 1938, on Application No. 21939.

Frank J. Knapp and John P. Demeter are 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. Applicant T. J. Henderson shall within twenty (20) days after the effective date of the order herein unite with applicants Frank J. Knapp and John P. Demeter in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant T. J. Henderson withdrawing and applicants Frank J. Knapp and John P. Demeter accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant T. J. Henderson shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in his name with the Railroad Commission and applicants Frank J. Knapp and John P. Demeter

shall within twenty (20) days after the effective date of the order herein file, in duplicate, in their own names time schedules covering service heretofore given by applicant T. J. Henderson which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant T. J. Henderson 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 applicants Frank J. Knapp and John P. Demeter unless such vehicle is owned by said applicants or is leased by them 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 the date hereof.

Dated at San Francisco, California, this 6<sup>th</sup> day of March, 1939.

Raymond A. Knapp  
Frank J. Knapp  
John P. Demeter  
Justice A. Cramer  
COMMISSIONERS