

ORIGINAL

Decision No. 32021

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of	)	
C. M. MITCHELL, to sell and WILLIAM	)	
J. JONAS, to purchase an automotive	)	
passenger line operated between	)	Application No. 22731
Brisbane and Junction of San Francisco	)	
and San Mateo County Line, California.	)	

BY THE COMMISSION:

O P I N I O N

C. M. Mitchell and William J. Jonas have petitioned the Railroad Commission for an order approving the transfer and sale by them to William J. Jonas of an operative right for the automotive transportation as a common carrier of passengers between a point where the Bayshore Highway intersects the San Francisco - San Mateo County Line and Brisbane; and William J. Jonas has petitioned for authority to purchase and acquire such operative 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.

The consideration to be paid for the property herein proposed to be transferred is given as \$100 of which amount \$75 is alleged by the applicant to be the value of the equipment and \$25 is alleged to be the value of the intangibles.

The operative right herein proposed to be transferred was created by Decision No. 30509, dated January 10, 1938, on Application No. 21666.

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

William J. Jonas 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 C. M. Mitchell and William J. Jonas are hereby authorized to transfer to William J. Jonas and William J. Jonas is hereby authorized to acquire the operative right referred to in the foregoing opinion and to hereafter operate thereunder, 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 C. M. Mitchell and William J. Jonas shall within twenty (20) days after the effective date of the order herein unite with applicant William J. Jonas in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicants Mitchell and Jonas withdrawing and applicant Jonas accepting and establishing such tariffs and all effective supplements thereto.

3. Applicants Mitchell and Jonas shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in their name with the Railroad Commission and applicant Jonas 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 Mitchell and Jonas which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicants Mitchell and Jonas 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 Jonas 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 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 twenty (20) days from the date hereof.

Dated at San Francisco, California, this 23<sup>rd</sup> day of May, 1939.

Raymond J. ...  
Frank ...  
W. J. ...  
W. J. ...  
Justice D. Cooney  
COMMISSIONERS