

Decision No. 32178

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of BURT W. SMITH to sell and L. D.)
BOHNETT, JR. to purchase an automobile)
passenger line operated between San)
Jose and Alum Rock Park, California.)

Application No. 22678

ORIGINAL

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION AND ORDER

On April 25, 1939, the Commission issued its Decision No. 31947 in this proceeding authorizing Burt W. Smith to sell and transfer to L. D. Bohnett, Jr. and authorized L. D. Bohnett, Jr. to purchase and acquire an operative right for the automotive transportation as a common carrier of passengers between San Jose and Alum Rock.

The authority was granted subject to the condition that it would lapse and become void if the conditions attached thereto were not complied with within the times fixed by the order therein.

The authority conferred was not exercised within the time limit fixed by Decision No. 31947 and is now void. Applicants are herein requesting the Commission to reaffirm the order made in said Decision No. 31947. In support of such request applicants allege that their failure to comply with such conditions was because of their ignorance of the fact that certain forms proscribed by the Commission should have been used.

Therefore, good cause appearing,

IT IS ORDERED that the order contained in Decision No. 31947, dated April 25, 1939, in the above entitled proceeding, and each and

all of the terms and provisions thereof be, and they are, hereby adopted and made a part hereof by reference, to the same extent and with the same force and effect as though the same were here set forth in full; and,

IT IS FURTHER ORDERED that in lieu of the conditions contained in the order of said Decision No. 31947, the following conditions be, and they, are hereby adopted and made a part hereof to wit:

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 Burt W. Smith shall within thirty (30) days after the effective date of the order herein and upon not less than five (5) days' notice to the Commission and the public unite with applicant L. D. Bohnett, Jr. in common supplement to the tariffs on file with the Commission, covering service given under the operative right herein authorized to be transferred, applicant Burt W. Smith withdrawing and applicant L. D. Bohnett, Jr. accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Burt W. Smith shall within thirty (30) days after the effective date of the order herein and upon not less than five (5) days' notice to the Commission and the public withdraw all time schedules filed in his name with the Railroad Commission and applicant L. D. Bohnett, Jr. shall within thirty (30) days after the effective date of the order herein and upon not less than five (5) days' notice to the Commission and the public file, in duplicate, in his own name time schedules covering service heretofore given by applicant Burt W. Smith which time schedules shall be 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 L. D. Bohnett, Jr. 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 applicant shall not have complied with all of 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 18th day of

July, 1939.

James C. Wilson

Ray L. Kelley

H. B. ...

Justin J. ...
COMMISSIONERS