

Decision No. 32830

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
E. M. BURNER to sell and FRED C.)
COLLINS to purchase an automobile)
passenger line operated between)
Bakersfield and Wasco, California.)

Application No. 23254

BY THE COMMISSION:

O P I N I O N

M. Roe, as the sole surviving heir of E. M. Burner, deceased, has petitioned the Railroad Commission for an order approving the sale and transfer by her to Fred C. Collins, of an operating right for the automotive transportation, as a common carrier of passengers and property, limited to shipments of one hundred (100) pounds or less, between Bakersfield and Wasco, via Rosedale, Shafter and Palmo; and Fred C. Collins has 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.

The consideration to be paid for the property herein proposed to be transferred is given as \$1,600. Of this sum, \$400 is alleged by the applicant to be the value of the equipment and \$1,200 is alleged to be the value of the intangibles.

The operating right herein proposed to be transferred

(1)
was acquired by Decision No. 15378, dated September 11, 1925,
on Application No. 10949, as amended by Decision No. 31841,
dated March 20, 1939, on Application No. 22622.

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

Fred C. Collins 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 deter-
mining 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 M. Roe is hereby authorized to
transfer to Fred C. Collins, and Fred C. Collins is hereby auth-
orized to acquire the operative right referred to in the foregoing
opinion, in accordance with the terms of the agreement marked
Exhibit "A," attached to the application herein, and to hereafter
operate thereunder, subject to the following conditions:

1. The authority herein granted shall lapse and be
void if applicant shall not have complied with all the
conditions within the periods of time fixed herein,
unless, for good cause shown, the time shall be ex-
tended by further order of the Commission.

(1) Burner originally held a certificate of public convenience and
necessity between Shafter and Bakersfield and intermediate points
and subsequently acquired a more extensive right including these
points, and also Wasco.

2. 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.

3. Applicant M. Roe 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 Fred C. Collins in common supplement to the tariffs on file with the Commission covering the service given under the operative right herein authorized to be transferred, applicant M. Roe withdrawing, and applicant Fred C. Collins accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant M. Roe 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 the name of E. M. Burner with the Railroad Commission, and applicant Fred C. Collins 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 E. M. Burner, which time schedules shall be satisfactory to the Railroad Commission.

5. 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.

6. No vehicle may be operated by applicant Fred C. Collins 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.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 20th day of February, 1940.

Frank Miller
Ralph Washburn
James J. Caenen
COMMISSIONERS