

Decision No. 15322

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Cleason Ambler to sell and W. W. Wood)
to purchase and consolidate with his)
present common carrier operations, an)
automobile freight line operated be-)
tween San Diego, Lakeside, Ramona, Witch)
Creek, Santa Ysabel and Mesa Grande,)
California and intermediate points.)

ORIGINAL

Application No. 23790

BY THE COMMISSION:

O P I N I O N

Cleason Ambler has petitioned the Railroad Commission for an order authorizing the sale and transfer by him to W. W. Wood of a highway common carrier operative right for the transportation of property between San Diego and Mesa Grande and certain intermediate points. W. W. Wood has petitioned for authority to purchase and acquire said operative right and hereafter to operate thereunder, as an extension and enlargement of his present operative right between San Diego, Santa Ysabel and Warner's Hot Springs.

The sale and transfer is to be made in accordance with an agreement, a copy of which, marked Exhibit "A," is attached to the application herein. Under the terms of this agreement the consideration to be paid is shown to be \$500. Of this sum it is stated that \$200 represents the value of the equipment and the remainder the value of the intangibles.

The operative right herein proposed to be transferred appears to be a prescriptive operative right established by applicant Ambler prior to July 26, 1917, as evidenced by his local freight tariff C.R.C. No. 1, filed with the Commission on February 23, 1917, and made effective on March 1, 1917. Such tariff shows the rates for the transportation of property between San Diego and Mesa Grande

and intermediate points, via Santee, Ramona, Witch Creek and Santa Ysabel.

Applicant Wood is providing a highway common carrier service between San Diego and Warner's Hot Springs and intermediate points which includes all points served by Ambler excepting Mesa Grande which is situated a few miles westerly of the route between Santa Ysabel and Warner's Hot Springs. No other highway common carrier serves the territory involved and it therefore does not appear that a public hearing is necessary. The application will be granted.

W. W. Wood 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 Cleason Ambler is hereby authorized to transfer to W. W. Wood, and W. W. Wood is hereby authorized to acquire the operative right and property referred to in the foregoing opinion, in accordance with the terms of the agreement marked Exhibit "A," attached to the application, as an extension and enlargement of said applicant Wood's present operative right between San Diego, Santa Ysabel and Warner's Hot Springs. The authority herein granted is subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicants 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.
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 Cleason Ambler 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 W. W. Wood 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 Ambler withdrawing, and applicant Wood accepting and establishing such tariffs and all effective supplements.

4. Applicant Ambler 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 Wood 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 triplicate, in his own name, time schedules covering service heretofore given by applicant Ambler 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 Wood 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.

7. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

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

Dated at San Francisco, California, this 10th day of
December, 1940.

Ray L. Riley
Frank D. Miller
Justin F. Coe
COMMISSIONERS