

Decision No. 36938

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
ELMER W. OWEN to sell and ERNEST L.)
BELLINGER to purchase an automobile)
and stage line operated between)
Sterling City and Chico, California.)

Application No. 25980

BY THE COMMISSION:

O P I N I O N

In this proceeding Elmer W. Owen, doing business as Chico-Paradise-Stirling City Stage Line, proposes to sell and Ernest L. Bellinger to buy, the operative right for the transportation of persons and property between Chico and Stirling City and intermediate points. This right was originally created by Decision No. 5704, dated August 26, 1918, and through successive transfers was eventually acquired by Elmer W. Owen, the seller herein, by virtue of Decision No. 27428, dated August 8, 1934.

By the terms of an agreement entered into by the parties, the buyer agrees to pay the seller the sum of \$982 of which amount \$250 is said to represent the value of the operative right and \$732 the value of the equipment, consisting of one 1929 Dodge passenger and property-carrying vehicle.

One round trip daily is operated between Stirling City and Chico.

The operating statement of applicant shows the following results on an annual basis for the past four years:

	1940	1941	1942	1943
<u>REVENUES</u>				
Passenger	\$ 8	\$ 3	\$ 25	
Freight	<u>2464</u>	<u>2109</u>	<u>2096</u>	
Total	\$2472	\$2112	\$2121	<u>\$2637</u> (1)
<u>EXPENSES</u>	\$2844	\$1153	\$1628	(2)
<u>OPERATING INCOME</u> (<u>\$ 372</u>)		\$ 959	\$ 493	(3)

() = Red Figures

- (1) Not segregated as to passenger and freight.
 (2) (3) Figures not yet available.

The law has required Elmer W. Owen and his predecessors to pay, in connection with applications for the transfer of said operative right, filing fees in the amount of \$150. If Ernest L. Bellinger acquires said operative right and pays therefor the sum of \$250, he may charge to Intangible Capital a sum not in excess of said \$150. The remainder should be charged to Proprietor's Investment account.

The Commission is of the of the opinion that authorization for the transfer is in the public interest and that the application should be granted. The order following will be in accordance with that finding.

Ernest L. Bellinger is placed upon notice that "operative rights" as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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

Application having been made in the above entitled matter, and the Commission being duly advised, and hereby finding that public convenience and necessity so require,

IT IS ORDERED as follows:

(1) That Elmer W. Owen is authorized to sell and transfer, and Ernest L. Bellinger to purchase and acquire the operative right and equipment referred to in the foregoing opinion, and thereafter to operate thereunder.

(2) That if said Ernest L. Bellinger acquires said operative right, he may charge to Intangible Capital not more than \$150 of the purchase price, the remainder of the payment for said operative right should be charged to Proprietor's Investment account.

(3) That applicants herein shall comply with the rules of the Commission's General Order No. 79 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective tariffs and time schedules satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission.

(4) That the authority herein granted by the Commission to the parties to transfer and purchase the properties in question shall not be construed to be a finding by the Commission or otherwise of the value of said properties.

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

Dated at San Francisco, California, this 14th day of March, 1944.

Justus F. Quisenberry
Francis L. Havenner

Robert L. Lawrence
COMMISSIONERS