

Decision No. 39654

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
Frank Cedric Schott (L. C. Smith and	:	
Daniel S. Carlton, administrators))	Application
and of Walter C. Roff, Marshall Gill	:	No. 27989
and Richard Ernst for orders author-)	
izing the transfer of operative rights "	:	
and properties.)	
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OPINION AND ORDER

By Decision No. 34185, dated May 13, 1941, in Application No. 24110, the Railroad Commission granted to F. C. Schott a certificate of public convenience and necessity to operate an automobile freight line for the transportation of lumber and forest products from Canyon Creek and Burney to Pondosa Upper Yard and Nubieber.

The application herein shows that on September 30, 1946, the Superior Court of the State of California in and for the County of Shasta made its order confirming the sale, by Daniel S. Carlton and L. C. Smith, administrators of the estate of F. C. Schott, deceased, to Marshall Gill and Walter C. Roff for the sum of \$19,800, in cash, of real and personal property as a unit of said estate, including among other things, the highway common carrier operative rights and equipment. The application further shows that subsequent to the issuance of the order by the Superior Court, arrangements were made by said Marshall Gill and Walter C. Roff to sell an undivided one-third interest in the business and properties, upon consummation of the transfer from

the estate of F. C. Schott, to Richard Ernst in consideration for the payment by said Ernst of the sum of \$3,300 in cash to each of them.

The Commission is asked to make its orders authorizing the transfers of the operative rights and properties. In considering the matter, the Commission has made no finding of the cost or value of the operative rights and properties. Further, it hereby places Marshall Gill, Walter C. Roff and Richard Ernst 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 in the number of rights which may be given.

The Commission is of the opinion that a public hearing is not necessary in this matter and that the application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. Daniel S. Carlton and L. C. Smith, administrators of the estate of F. C. Schott, deceased, may transfer to Marshall Gill and Walter C. Roff, on or before December 31, 1946, the certificate of public convenience and necessity heretofore granted by the Commission by Decision No. 34185, dated May 13, 1941, and the operative equipment used in connection therewith.

2. Marshall Gill and Walter C. Roff may transfer said certificate and properties to Marshall Gill, Walter C. Roff and Richard Ernst, a copartnership doing business as The Burney Transportation Co.

3. Applicants shall comply with the provisions of General Order No. 30 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty (60) days from the date hereof and on not less than one (1) day's notice to the Commission and to the public.

4. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this 26th day of November, 1946.

Harold H. Kules
Justin F. Cravens
Stymie Davis
Jack Howell
A. J. [unclear]
Commissioners