Decision No. 52878

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of W. H. Gilbert to sell Certificate of Public Convenience and Necessity for the transportation of ducks and geese between Tulelake, California, and Dorris, California, to Chester Stonecypher, Jr., under the provisions of Section 851-853 of the Public Utilities Code.

Application No. 37803

OPINION

W. H. Gilbert under Commission authority provides a seasonal highway common carrier service between Tulelake and Dorris for the transportation of wild ducks and geese. The seasonal dates are Octobor 16 to November 18 inclusive and December 8 to January 10 inclusive. This service is rendered primarily as an aid to hunters. Under the Fish and Game Code a hunter may not have more than one limit of ducks and geese in his possession. However, after delivering a day's kill into the custody of a public carrier, the hunter is deemed to have parted with possession and may then lawfully shoot the limit the following day. The institution of this service was made at the request of the president of the Fish and Game Commission.

By Application filed March 3, 1956, W. H. Gilbert requests permission to withdraw from this business and to transfer his operative rights for one dollar to applicant Chester Stonecypher, Jr.

Decision No. 49185, dated October 6, 1953, in Application No. 34752.

who will continue the service. The purchaser has sufficient financial resources to perform this service. He submitted with the application a certificate of insurance showing ample coverage. The Commission finds that the proposed transfer of operative rights will not be adverse to the public interest.

By Decision No. 49185, supra, W. H. Gilbert was exempted from the minimum rates for this transportation due to the specialized nature of the transportation. This exemption will also be transferred.

Applicant Stonecypher is hereby 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. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited as to the number of rights which may be given.

ORDER

The Commission having considered the above-entitled application and being of the opinion that a hearing is unnecessary and that the proposed transfer is not adverse to the public interest; therefore,

IT IS HEREBY ORDERED:

(1) That within the period commencing on the effective date of this order and ending October 11, 1956, W. H. Gilbert may sell

The exemption was restated in Decision No. 52199 of November 7, 1955, in Case No. 5432.

and transfer to Chester Stonecypher, Jr., the operative rights referred to in the preceding opinion for a total consideration of one dollar in cash.

- (2) That within said period, applicant Stonecypher shall notify the Commission in writing of the fact of transfer and within said period shall file with the Commission any bill of sale or other instrument of transfer which may have been executed to effect such transfer.
- (3) That within said period, in accordance with the Commission's General Order No. 80, and concurrently with the transfer authorized by Ordering Paragraph (1) hereof, and on not less than five days' notice to the Commission and the public, applicant Stonecypher shall institute service and unite with applicant Gilbert in common supplements to the tariffs of seller, said Gilbert withdrawing and said Stonecypher adopting and establishing such tariff and all effective supplements thereto.
- (4) That Chester Stonecypher, Jr., is substituted for W. H. Gilbert in Appendix "C" of Decision No. 52199 of November 7, 1955, in Case No. 5432.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this day

of Astell, 1956.

President

Angles of Astell

Commissioners