

Decision No. 57336**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 E. F. ROPER for authority to transfer )  
 his passenger stage certificate operat- )  
 ing between San Jose and Mount Hamilton, )  
 Santa Clara County, to NEWTON S. DAVIS )  
 under the provisions of Sections 851-853 )  
 of the Public Utilities Code. )

Application No. 40315

O P I N I O N

Applicant, by his application filed July 31, 1958, requests authority to transfer, to Newton S. Davis, his rights as a passenger stage corporation for the transportation of passengers and express. It is alleged that Mr. Roper has operated this stage line continuously for thirty-eight years.<sup>1/</sup> He is now seventy years of age and wishes to retire. Applicant Davis now holds the mail contract and is alleged to be well qualified in all respects to carry on the passenger stage operation. Applicant Davis has a net worth of \$26,425 and has equipment which appears suited for this work.

The consideration of \$2,000 is to be paid in cash. It will be assumed that the price includes good will because the seller states that it is his intention to retire. The Commission finds that the proposed transfer will not be adverse to the public interest. A public hearing appears unnecessary. The action taken herein shall not be construed to be a finding of the value of the operative rights herein authorized to be transferred.

Newton S. Davis 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

<sup>1/</sup> Decision No. 8133, dated September 23, 1920, in Application No. 6113.

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 modified or cancelled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

Application having been made to the Public Utilities Commission for an order authorizing the transfer of operative rights, and the Commission having considered the matter and being of the opinion that a public hearing is not necessary and that the application should be granted as hereinafter provided,

IT IS ORDERED:

1. That E. F. Roper, after the effective date hereof and on or before December 31, 1958, may, upon the payment of \$2,000 in cash, transfer his operative rights and good will to Newton S. Davis, who may thereafter exercise such operative rights.

2. That the authority herein granted is subject to the following conditions:

- (a) That contemporaneously with the transfer of operative rights applicant Roper shall transfer to applicant Davis the good will of said passenger stage business.
- (b) Within thirty days after the consummation of the transfer herein authorized, applicant Davis shall notify the Commission of that fact and file with the Commission a true copy of any instrument of transfer which may have been executed to effect such transfer.
- (c) Within sixty days after the consummation of the transfer, on not less than five days' notice to the Commission and to the public, applicants shall supplement or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the

common carrier operations here involved, to show that E. F. Roper, doing business as Mt. Hamilton Stage Line, has withdrawn or cancelled, and Newton S. Davis has adopted or established as his own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

- (d) Applicant Davis is placed on notice that he will be required, among other things, to file annual reports of his operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 98. Failure to file such reports in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 98, may result in a cancellation of the operating authority or permission to transfer which is granted by this decision.

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

Dated at San Francisco, California, this 15<sup>th</sup> day of September, 1958.

E. L. Fox  
President

[Signature]

[Signature]

[Signature]

Theodore J. [Signature]  
Commissioners