

Decision No. 20549

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
SOPHIE H. REED to transfer and
assign certificate of public convenience
and necessity, and of PETER J. LUBBERING
to accept such transfer and assignment.

)
) Application
) No. 15207
)
)
)

BY THE COMMISSION -

OPINION and ORDER

ORIGINAL

Sophie H. Reed has applied to the Railroad Commission for an order approving the sale and transfer by her to Peter J. Lubbering of an operating right for the transportation of milk, cream and dairy products between dairy ranches in the vicinity of Los Angeles and the cities of Burbank, Glendale and Los Angeles, and Peter J. Lubbering has asked for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$10,000 plus the sum of \$5720.77 due on sales contracts covering three of the six pieces of equipment involved in the transaction.

The operating right herein proposed to be transferred was granted to F. W. Reed, husband of applicant Sophie Reed, by Railroad Commission Decision No. 15797, dated December 23, 1925, and issued on Application No. 11267. Decision No. 15797 authorized Reed to operate a service for the transportation by truck of milk, cream and dairy products between dairy ranches in that portion of the city of Los Angeles north of Ventura Boulevard and its prolongation easterly to the San Fernando Road, and the cities of Burbank, Glendale and Los Angeles, over and along the following route:

From any point in said city of Los Angeles to Burbank, thence south via the San Fernando Road to the city of Glendale, thence via San Fernando Road into the city of Los Angeles.

By Decision No.19697, dated May 2, 1928, and issued on Application No.14442 Reed was authorized to transfer the right as described in Decision No.15797 to his wife, Sophie H. Reed.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

Peter J. Lubbering 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.

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, subject to the following conditions:

1- 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 any purpose other than the transfer herein authorized.

2- Applicant Sophie H. Reed shall immediately unite with applicant Peter J. Lubbering in common supplement to the tariffs on file with the Commission, applicant Reed on the one hand withdrawing, and applicant Lubbering on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Reed shall immediately withdraw time schedules filed in her name with the Railroad Commission and applicant Lubbering shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Reed, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Reed, or time schedules satisfactory to the Railroad Commission.

4- 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 secured.

5- No vehicle may be operated by applicant lubbering 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.

Dated at San Francisco, California, this 3rd day of December
1928.

Leon White

A. Seaney

Thos. L. Lutes

W. J. Linn

COMMISSIONERS.