

Decision No. 29713

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of CHARLES KUPPINGER, to sell, and GUIDO de CHETALDI to purchase, an automobile freight line operated between Ukiah, Mendocino County, California, on the one hand, and Hemlock, said Mendocino County, and Bachelor Valley, Witter Springs, Upper Lake, Sailor's Pear Shed, Clear Lake Villas, Clear Lake Lodge, and Clear Lake Beach Tract, Lake County, California, and intermediate points, on the other hand, including one automobile truck.

Application No. 15310

ORIGINAL

BY THE COMMISSION -

OPINION and ORDER

Charles Kuppinger has petitioned the Railroad Commission for an order approving the sale and transfer by him to Guido de Chetaldi of an operating right for the transportation of property between Ukiah, Mendocino County, and certain points in Lake County, and Guido de Chetaldi 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 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 \$350, all of which sum is said to represent the value of intangibles.

The operating right herein proposed to be transferred was granted to applicant Kuppinger by Railroad Commission Decision No. 13886, dated August 5, 1924, and issued on Application No. 10281.

In said decision the Commission authorizes Kuppinger to operate

** * * an automotive truck service for the transportation of freight between Upper Lake and Sailors Pear Sheds and intermediate points, said service to be seasonal, (approximately from July 1st to November 1st of each year) and between Upper Lake and Clear Lake Beach tract, serving among the intermediate points Clear Lake Villa and Clear Lake Lodge, both services to be operated in conjunction with and as part

of the service now being given by said Charles Kuppinger between Upper Lake and Ukiah by virtue of authority granted by this Commission in Application No.8210."

By Decision No.10923, dated August 31, 1922, and issued on Application No.8210, above referred to, Kuppinger acquired from Guido de Ghetaldi, buyer in the present proceeding, an operating right for an auto trucking service between Ukiah and Upper Lake and intermediate points established by Ghetaldi through operation prior to May 1, 1917. Ghetaldi, then, is by the present proceeding, seeking authority to acquire the right originally established by him as enlarged by the Commission's order in Decision No.13886.

By Decision No.13886 the Commission also granted to Kuppinger a right to operate a trucking service (seasonal) between Hopland and C.B. Williams packing shed, to be operated by him in connection with and as part of the Kuppinger certificated service between Hopland and Lakeport. This right is not involved in the instant proceeding.

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.

Guido de Ghetaldi 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 Charles Kuppinger shall immediately unite with applicant Guido de Ghetaldi in common supplement to the tariffs on file with the Commission covering service between the points served under authority of the certificate herein transferred, applicant Kuppinger on the one hand withdrawing, and applicant de Ghetaldi on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Kuppinger shall immediately withdraw time schedules filed in his name with the Railroad Commission covering service between the points served under authority of the certificate herein transferred, and applicant de Ghetaldi shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Kuppinger, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Kuppinger, 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 de Ghetaldi 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 23rd day of January,
1929.

Thos. J. Louder

C. J. Seary

M. J. Carr
COMMISSIONERS.