

Decision No. 15277

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
FRED PETTIT to sell, and MANLOVE &)
PETERS to purchase an automobile) Application No.15277
freight line operated between Stockton)
and Gustine, California.)

BY THE COMMISSION -

OPINION and ORDER

Fred Pettit has petitioned the Railroad Commission for an order approving the sale and transfer by him to W. A. Manlove and R. F. Kerr, co-partners, of an operating right for an automotive trucking service for the transportation of freight between Stockton and Gustine and butter only between Modesto and Gustine, and W. A. Manlove and R. F. Kerr, co-partners, have 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 \$2500. Of this sum \$300 is declared to represent the value of intangibles, and \$2200 is said to be the value of certain equipment.

The operating right herein proposed to be transferred was originally granted to Ben Baird by the Railroad Commission, Decision No.10214, dated March 21, 1922, and issued on Application No.7424. Said decision authorized Baird to operate an auto freight service between Stockton and Gustine, serving Newman, Crows Landing and Halfway House as intermediate points and to transport butter only between Gustine and Modesto. By Decision No.11476, dated January 8, 1923, and issued on Application No.8547, the Commission authorized Ben Baird to transfer the right granted by Decision No.10214 to Theo . Peters. The last named, by

authority of the Commission, as shown by Decision No. 11904, dated April 5, 1923, and issued on Application No. 6939, transferred the right to Fred Pettit, one of the applicants herein.

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.

W. A. Manlove and R. F. Kerr, co-partners, are 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 Fred Pettit shall immediately unite with applicants Manlove and Kerr in common supplement to the tariffs on file with the Commission, applicant Pettit on the one hand withdrawing, and applicants Manlove and Kerr on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Pettit shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicants Manlove and Kerr shall immediately file, in duplicate, in their own names time schedules covering service heretofore given by applicant Pettit, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Pettit 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 applicants Manlove and Kerr unless such vehicle is owned by said applicants or is leased by them under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 16th day of April, 1929.

Thos D Lovett

C. J. Loney

M. J. Carr
Commissioners.