

Decision No. 22811

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
THOMAS PETERSEN to sell, and
GEORGE HARM to purchase, certificates
of public convenience and necessity
and equipment used in the business of
transporting property by motor truck
between Fresno, Caruthers, Riverdale
and Lanare.

ORIGINAL

Application No. 15798

BY THE COMMISSION -

OPINION and ORDER

Thomas Petersen has petitioned the Railroad Commission for an order approving the sale and transfer by him to George Harm of the operating rights for an automotive service for the transportation of property between Fresno and Lanare, and George Harm has petitioned for authority to purchase and acquire said operating rights 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 \$1250.00. Of this sum \$1200.00 is declared to be the value of equipment and \$50.00 is declared to be the value of intangibles.

The operating rights herein proposed to be transferred were established in the following manner:

Decision No. 12236, dated June 28, 1923, and issued on Application No. 9002 -- A.R. Peart authorized to operate auto trucking service for the transportation of freight and express between Fresno and Caruthers via Elm Avenue and Mountain View Avenue.

Decision No. 13521, dated May 5, 1924, and issued on Application No. 9994 -- J. R. Peart authorized to sell to J.O. Bray, operating right authorized by Decision No. 12236.

Decision No. 5914, dated November 14, 1918, and issued on application No. 4198 -- O. L. Higdon authorized to operate auto trucking service for the transportation of freight and express between Fresno, Camden and Riverdale.

Decision No. 7509, dated April 30, 1920, and issued on application No. 5222 -- O. L. Higdon authorized to operate freight and express service between Riverdale and Lanare, in connection with and as part of Fresno-Riverdale service.

Decision No. 13994, dated August 30, 1924, and issued on application No. 10413 -- O. L. Higdon authorized to transfer to J. O. Gray operating rights authorized by Decision No. 5914 and No. 7509.

Decision No. 13435, dated March 3, 1928, in Application No. 14459 -- J. O. Gray authorized to transfer to Thomas Petersen the next hereinbefore described operating rights.

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.

George Harm 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 Harm shall immediately unite with applicant Petersen in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Petersen on the one hand withdrawing, and applicant Harm on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Petersen shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicant Harm shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Petersen, which time schedules shall be identical with the time schedules now on file with the Railroad Commission, 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 Harm 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 25th day of

August, 1930.

O. L. Harvey,

John D. Lovitt

W. P. Carr
COMMISSIONERS.