

Decision No. 23766

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 MANLOVE and KERR to sell, and )  
 FREDERICK C. SONKE and JACOB J. SONKE ) Application  
 to purchase an automobile Freight Line ) No.17258  
 operated between Stockton and Custine, )  
 California. )

BY THE COMMISSION -

OPINION and ORDER**ORIGINAL**

Manlove and Kerr, co-partners, have petitioned the Railroad Commission for an order approving the sale and transfer by them to F. C. and J. J. Sonke, co-partners, of an operating right for an automotive service for the transportation of property between Stockton and Newman, and F. C. and J. J. Sonke have petitioned 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 \$1350.00. Of this sum \$700.00 is declared to be the value of equipment and \$650.00 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was originally granted to Ben Baird by the Railroad Commission's Decision No.10214 of March 21, 1922, in Application No.7424, which granted a certificate to Baird for the operation

"..... of an automobile freight truck service between Stockton and Newman, serving Custine, Crows Landing and Halfway House as intermediate points, and to transport butter between Custine and Modesto."

Subsequent transfers of the operating right granted by Decision No.10214 were authorized as follows:

Decision No.11476 of January 8, 1923, in Application No.8547,  
Ben Baird to Theo. Peters;

Decision No.11904 of April 5, 1923, in Application No.8839,  
Theo. Peters to Fred Petitt;

Decision No.20974 of April 16, 1929, in Application No.15277,  
Fred Petitt to W. A. Manlove and R. F. Kerr.

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.

F. C. and J. J. Sonke are hereby placed upon notice that "operative rights" do not constitute a class of property which may 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. Applicants Manlove and Kerr shall immediately unite with applicants F. C. and J. J. Sonke in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicants Manlove and Kerr on the one hand withdrawing, and applicants F. C. and J. J. Sonke on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicants Manlove and Kerr shall immediately withdraw time schedules filed in their names with the Railroad Commission, and applicants F.C. and J. J. Sonke shall immediately file, in duplicate, in their names time schedules covering service heretofore given by applicants Manlove and Kerr, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Manlove and Kerr, 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 F. C. and J. J. Sonke 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 27th day of June,  
1931.

Clarence  
Leon Whitman  
W. J. C.  
W. B. Harris  
Fred G. Stewart  
COMMISSIONERS.