

Decision No. 24204

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of CHARLES KUPPINGER to sell, and W. G. MARTIN to purchase an automobile freight line operated between Hopland, Mendocino County, and Lakeport, Lake County, California.)
)
) Application No.17904

ORIGINAL

In the Matter of Application of CHARLES KUPPINGER for authority to discontinue operation of an automobile service as a common carrier between Lakeport and Upper Lake County.)
)
) Application No.17905

BY THE COMMISSION -

O P I N I O N

Charles Kuppinger, by the above numbered applications, seeks to sell and transfer his operative right for the transportation of property between Hopland and Lakeport to W. G. Martin and to discontinue all operation of a like character between Lakeport and Upper Lake.

Applicant proposes to sell the operating right between Lakeport and Hopland to Martin, according to an agreement marked Exhibit "A" attached to and made part of the application, for the sum of \$100. No equipment is involved. This right was created by bona fide operation by Kuppinger prior to May 1, 1917, and has been continuously maintained by him ever since. It is Lakeport's direct connection with the freight service of Northwestern Pacific Railroad at Hopland. There appears no reason why the transfer should not be approved.

The right sought to be abandoned was created by certificate granted by Decision No.18098, on Application No.12914, dated March 21, 1927. At the time it was granted Kuppinger also had certificated operations between Ukiah and Upper Lake and Lucerne, which since have been transferred to Guido de Chetaldi by Decision No.20713, on Application No.15310, dated January 23, 1929. Kuppinger also had an operating right

between Lakeport and Ukiah, via Scott's Valley, which he was permitted to discontinue by Decision No.20524 , on Application No.15204 , dated November 26, 1928.

By the discontinuance of the service between Lakeport and Upper Lake Kuppinger will divest himself of all rights, except those granted by Decision No.17884, on Application No.12240, dated January 12, 1927, which is limited to the transportation of household furniture etc., between San Francisco and Lakeport and other Lake County points, and certain intermediates. Applicant states that "not 100 pounds of freight have been hauled in the past three months."

In view of this trivial movement and the further fact that freight to and from Upper Lake almost wholly moves to and from Ukiah, there appears no reason why the request to discontinue should not be granted.

These matters appear to be ones in which a public hearing is not necessary.

W. G. Martin 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.

O R D E R

IT IS HEREBY ORDERED that the above entitled application to transfer be and the same hereby is 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 W. G. Martin in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Charles Kuppinger on the one hand withdrawing, and applicant W. G. Martin on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Charles Kuppinger shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicant W. G. Martin shall immediately file, in duplicate, in his own name time schedules covering service heretofore given by applicant Charles Kuppinger, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Charles 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 W. G. Martin 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.

AND IT IS FURTHER ORDERED that authority is hereby granted to applicant Charles Kuppinger to discontinue all service for the transportation of property between Lakeport and Upper Lake, as authorized by Decision No.18098, on Application No.12914, dated March 21, 1927; provided applicant shall, within twenty (20) days from date hereof file cancellation of his time schedules and tariffs therefor.

AND IT IS FURTHER ORDERED that Decision No.18098, on Application No.12914, be and the same hereby is revoked and annulled.

Dated at San Francisco, California, this 10th day of January 1932.

C. J. [Signature]
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