

Decision No. 25837

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
A. HARWOOD to sell, and PACIFIC
MOTOR TRANSPORT COMPANY, a corpora-
tion, to purchase, an automobile
freight line operated between
Willits, Mendocino County, California,
and Garberville, Humboldt County,
California.)

) Application No. 18676.

ORIGINAL

H. W. Hobbs, for applicants.
Reginald L. Vaughan, for Alfred R. Kelly, Jr.,
protestant.
Edward Stern, for Railway Express Agency, Inc.,
interested party.

BY THE COMMISSION:

OPINION AND ORDER

The applicant herein, claiming to operate under certificate of this Commission between Willits and Garberville, desires to sell his so-called operative rights to the Pacific Motor Transport Company. The application is made on behalf of both the seller, A. Harwood, and the buyer, Pacific Motor Transport Company. The hearing took place before Examiner Johnson on March 13, 1933, at San Francisco. The undisputed testimony showed that A. Harwood ceased operating under his franchise on October 25, 1932, and did not resume operations until January 25, 1933, when the Pacific Motor Transport Company entered into a contract with Harwood to pay him a definite amount per trip, or guarantee per week, in order that he might resume operations. The service rendered since January 25, has been a mere subterfuge, as testified to by Harwood himself, in that little or no freight or express has been hauled. Harwood testified that people along this route from Willits to Garberville prefer direct truck service to San Francisco both on account of the

advantage in rates and on account of the direct delivery without transfer at Willits.

An order to cease and desist having been heretofore issued against Harwood in Case No. 3487, there are no operative rights here to transfer. It is a similar matter to the recently announced decision of this Commission in Case 3315, Frank Davies vs. Alpha Hardware and Supply Company, Decision No. 25645.

The Pacific Motor Transport Company's subsidizing the franchise holder to resume after the three months of discontinuance cannot restore to good standing the operator who has already discontinued for ninety days without permission from this Commission.

IT IS THEREFORE ORDERED that the application herein be dismissed.

Dated at San Francisco, California, this 10th day of May, 1933.

C. L. Seney
Leon O'Connell
W. A. Lee
W. B. Lawrence
D. H. Brown
Commissioners.