

Decision No. 26189

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
JOS. BARRERE, INC. for authority to )  
sell, and PACIFIC MOTOR TRUCKING )  
COMPANY for authority to acquire and )  
operate the operative rights for trans- )  
portation of property by motor truck )  
held by JOS. BARRERE, INC. under ) Application No.19332  
Decision No.26189, together with )  
certain equipment, and to consolidate )  
such rights with the operative rights )  
already held by PACIFIC MOTOR TRUCKING )  
COMPANY covering the territory between )  
San Rafael and Point Reyes, California. )

BY THE COMMISSION -

OPINION and ORDER

Jos. Barrere, Inc., a corporation, has petitioned the Railroad Commission for an order approving the sale and transfer by it to Pacific Motor Trucking Company, a corporation, of an operating right for an automotive service for the transportation of property (milk, cream and containers), between San Rafael and Point Reyes and other points, and Pacific Motor Trucking Company has 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 \$2500.00. Of this sum \$1500.00 is declared to be the value of equipment and \$1000.00 is declared to be the value of intangibles.

The operating right herein proposed to be transferred was created by Decision No.26189, dated July 24, 1933, on Application No.18923.

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.

Pacific Motor Trucking Company 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 Jos. Barrere, Inc. shall immediately unite with applicant Pacific Motor Trucking Company in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Jos. Barrere, Inc. on the one hand withdrawing, and applicant Pacific Motor Trucking Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Jos. Barrere, Inc. shall immediately withdraw time schedules filed in its name with the Railroad Commission, and applicant Pacific Motor Trucking Company shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicant Jos. Barrere, Inc., which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Jos. Barrere, Inc., 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 Pacific Motor Trucking Company unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 5<sup>th</sup> day of  
March, 1934.

C. E. Kearney  
Leon A. Whelan

M. B. Lewis

M. B. Lewis

A. J. H. Hare  
COMMISSIONERS.