

Decision No. 28524

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ALFRED R. KELLY, JR., operating under the fictitious name and style of REDWOOD MOTOR FREIGHT, to sell, and ELLIS RUGG to purchase an automotive service for the transportation of property between San Francisco, Petaluma, Santa Rosa, and Willits on the one hand, and locally between Willits and Garberville and intermediate points, on the other hand.

Application No. 20302.

BY THE COMMISSION:

O P I N I O N

**ORIGINAL**

Alfred R. Kelly, Jr. doing business under the name and style Redwood Motor Freight has petitioned the Railroad Commission for an order approving the sale and transfer by him to Ellis Rugg of an operating right for the automotive transportation as a highway common carrier of property between San Francisco, Petaluma, Santa Rosa and Willits, on the one hand and locally between Willits and Garberville and intermediate points, on the other hand and Ellis Rugg 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. Of this sum \$1000 is alleged by the applicant to be the value of the equipment and \$1500 is alleged to be the value of the intangibles.

The operating right herein proposed to be transferred was created by Decision No. 25891, dated May 1, 1933, Decision No. 26009, dated May 29, 1933 and Decision No. 27812, dated March 11, 1935, all in Application No. 18247 as modified by Decision No. 22545 dated November 26, 1934, in Application No. 19666 which last named decision is subject to a supplemental application for amendment thereof which is now under submission after a public hearing thereon.

This is a matter in which a public hearing is not necessary and the application will be granted.

Ellis Rugg 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 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 for any purpose other than the transfer herein authorized.

2. Applicant Rugg shall within twenty (20) days after the effective date of the order herein unite with applicant Kelly in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein

authorized to be transferred, applicant Kelly withdrawing and applicant Rugg accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Kelly shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in his name with the Railroad Commission and applicant Rugg shall within twenty (20) days after the effective date of the order herein file, in duplicate, in his own name time schedules covering service heretofore given by applicant Kelly which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Kelly 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 obtained.

5. No vehicle may be operated by applicant Rugg 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.

6. The authority herein granted to sell and transfer the rights and/or property shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

Dated at San Francisco, California, this 27<sup>th</sup> day  
of January, 1936.

M. B. Harris

W. D. Carr  
W. H. ...

COMMISSIONERS.