

Decision No. 28678

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of  
JOS. BARRERE, INC. for authority  
to sell and PACIFIC MOTOR TRUCKING  
COMPANY for authority to acquire  
and operate the motor trucking  
rights and equipment of Jos. Barrere,  
Inc. now operated by said company  
under authority of Decision No.  
23011 and any and all amendments  
thereof and supplements thereto.

Application No. 20438.

**ORIGINAL**

BY THE COMMISSION:

O P I N I O N

Joseph 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 the automotive transportation as a highway common carrier of milk, cream, dairy products and empty containers between San Francisco, Oakland, Emeryville, Piedmont, Berkeley, Albany, Alameda, San Leandro, Hayward and intermediate points; San Francisco, San Mateo, Palo Alto, Santa Clara, Los Gatos, San Jose and intermediate points and Tracy on the first hand; and Dublin, Santa Rita, Tracy, Lathrop, Oakdale, Los Banos, Pleasanton and intermediate points on the second hand; 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 \$15,000. Of this sum \$12,500 is alleged by the applicant to be the value of the

equipment and \$2500 is alleged to be the value of the intangibles.

The operating right herein proposed to be transferred was created by Decision No. 23011 dated October 27, 1930, as amended by Decision No. 25007 dated August 1, 1932 and Decision No. 25506 dated December 31, 1932 all in Application No. 16537.

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

#### 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 Pacific Motor Trucking Company shall within twenty (20) days after the effective date of the order herein unite with applicant Joseph Barrere, Inc. in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Joseph Barrere, Inc.

withdrawing and applicant Pacific Motor Trucking Company accepting and establishing such tariffs and all effective supplements thereto.

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

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.

6. The authority herein granted to sell and transfer the right 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 30th day  
of March, 1936.

W B Harris  
Leon Overhull  
W A Luy  
Frank R. Ryan  
COMMISSIONERS.