

Decision No. 28983

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 ELLIS RUGG, doing business under the
 name and style of Redwood Motor
 Freight, to sell and E. FRASHER to
 purchase an automobile freight line
 operated between San Francisco,
 Petaluma, Santa Rosa and Willits, on
 the one hand, and Garberville and
 points between Willits and Garberville,
 on the other hand, and locally between
 said last mentioned points.

Application No. 20648

ORIGINAL

BY THE COMMISSION:

OPINION

Ellis Rugg, doing business as Redwood Motor Freight, has petitioned the Railroad Commission for an order approving the sale and transfer by him to H. Frasher of operating rights for the automotive transportation as a highway common carrier of property between San Francisco, Petaluma, Santa Rosa and Willits, on the one hand, and Garberville and intermediate points of Laytonville, Cummings, Piercy, Hartsock and Benbow, on the other hand, and locally between all points intermediate to Willits and Garberville; and H. Frasher has petitioned for authority to purchase and acquire said operating rights 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 \$5,000. Of this sum \$1,000.00 is alleged by the applicant to be the value of the equipment and \$4,000 is alleged to be the value of the intangibles.

The operating rights herein proposed to be transferred were created in Ellis Rugg by Decision No. 28534, dated January 27, 1936.

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

H. Frasher 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 Ellis Rugg shall within twenty (20) days after the effective date of the order herein unite with applicant H. Frasher in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Rugg withdrawing and applicant Frasher accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Ellis Rugg 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 Frasher 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 Rugg which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Rugg 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 Frasher 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 12th day of July, 1936.

M. B. Harris
John O. [unclear]
W. J. [unclear]
Walter [unclear]
Frank [unclear]
Commissioners.