

Decision No. 28004

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of  
 PACIFIC MOTOR TRUCKING COMPANY to  
 acquire, and J. K. VANDERHURST and  
 E. K. DUDA, Co-partners, doing  
 business in the name of Salinas-  
 King City Freight Line, to sell,  
 the operative rights of the latter  
 for the transportation of property  
 between Salinas and King City and  
 intermediate points.

Application No. 20666

BY THE COMMISSION:

O P I N I O N

J. K. Vanderhurst and E. K. Duda, co-partners, operating under the name and style of Salinas-King City Freight Line, have petitioned the Railroad Commission for an order approving the sale and transfer by them to Pacific Motor Trucking Company of an operating right for the automotive transportation as a highway common carrier of property between Salinas and King City and intermediate points and Pacific Motor Trucking Company, a corporation 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 \$2300.00 which is alleged by the applicant to be the value of the intangibles.

No equipment is to be transferred in this proceeding.

The operating right herein proposed to be transferred was acquired by J. K. Vanderhurst under authority of Decision No. 7659, dated June 1, 1920 on Application No. 5721 and he subsequently sold an undivided one-half interest in said operating right to E. K. Duda under authority of Decision No. 14707, dated March 25, 1925 on Application No. 10925.

This appears to be a matter in which a public hearing is not necessary; 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. Applicants J. K. Vanderhurst and E. K. Duda shall within twenty (20) days after the effective date of the order herein unite with applicant Pacific Motor Trucking Company in common supplement to the tariffs on file with the Commission, covering service given under the certificate

herein authorized to be transferred, applicants J. K. Vanderhurst and E. K. Duda withdrawing and applicant Pacific Motor Trucking Company accepting and establishing such tariffs and all effective supplements thereto.

3. Applicants J. K. Vanderhurst and E. K. Duda shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in their names 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 applicants J. K. Vanderhurst and E. K. Duda which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicants J. K. Vanderhurst and E. K. Duda 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 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.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 22nd day of July, 1936.

M. B. Harris

Nathan Altman

Frank H. Wilson

COMMISSIONERS