

Decision No. 22898

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 PACIFIC MOTOR TRUCKING COMPANY to ac-  
 quire and J. A. KEITHLY to sell that  
 certain motor truck line operating  
 between Hopland and Lakeport and  
 Kelseyville, respectively, together  
 with all operative rights and equip-  
 ment pertaining thereto.

Application No. 21088

BY THE COMMISSION:

**ORIGINAL**O P I N I O N

J. A. Keithly has petitioned the Railroad Commission for an order approving the sale and transfer by him to Pacific Motor Trucking Company of operating rights for the automotive transportation as a highway common carrier of property between Hopland and Lakeport and between Hopland and Kelseyville; and Pacific Motor Trucking Company 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 \$4,000. Of this sum \$3,200 is alleged by the applicant to be the value of the equipment and \$800 is alleged to be the value of the intangibles.

The operating rights herein proposed to be transferred were created by Decision No. 25609, dated February 6, 1933, on Application No. 18677 and by Decisions Nos. 16044 and 16262 on Application No. 11413.

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 J. A. Keithly 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, applicant J. A. Keithly withdrawing and applicant Pacific Motor Trucking Company accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant J. A. Keithly 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 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 J. A. Keithly which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant J. A. Keithly 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.

7. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91

Dated at San Francisco, California, this 26<sup>th</sup> day of April, 1937.

W. L. H. H. H. H.  
Leon A. H. H. H.  
W. L. H. H. H.  
W. L. H. H. H.  
W. L. H. H. H.  
COMMISSIONERS.