

Decision No. 30984

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of GENE ANTICHI to sell and JOSEPH
PALACE, SAM ARONSON, W. E. RISKE,
and K. D. CROWDER to purchase
partnership interests in and to an
auto truck line operated under the
fictitious name and style of MOUNT
LASSEN FAST FREIGHT.

ORIGINAL

Application No. 21410

BY THE COMMISSION:

O P I N I O N

By this application and amendment thereto, Gene Antichi, a co-partner with Joseph Palace and Sam Aronson, has petitioned the Railroad Commission for an order approving the sale and transfer by him, to Joseph Palace, his undivided one-third interest in an operative right for the automotive transportation of property as a highway common carrier as heretofore acquired, extended, enlarged and restricted by certain California Railroad Commission decisions hereinafter set forth. Joseph Palace has petitioned, with approval of Sam Aronson, for authority to purchase and acquire the one-third interest in said operating right and to operate thereunder in accordance with an agreement, a copy of which marked Exhibit "A" is attached to and made a part of the application thereof.

Simultaneously and by mutual oral agreement, applicants Joseph Palace, Sam Aronson, W. E. Riske and K. D. Crowder have formed a new partnership and seek approval of the Commission to an arrangement whereby the aforementioned applicants each are to acquire a one-quarter interest in this operating right.

The considerations to be paid for the property herein proposed to be transferred are set up as follows:

1. Joseph Palace paid to Gene Antichi the sum of \$1700 for Antichi's undivided one-third interest, which sum is declared to be the value of the intangibles. No equipment was transferred.

2. W. H. Riske acquires a one-quarter interest and in consideration thereof has paid to Joseph Palace the sum of \$1500.

3. K. D. Crowder acquires a one-quarter interest and in consideration thereof agrees to pay into the partnership the sum of \$1500, said sum to be paid from his share of the partnership profits.

4. Applicants Aronson and Palace each retain a one-quarter interest in the operating right pursuant to and in accordance with certain oral agreements entered into by them with applicants Riske and Crowder. No written articles of co-partnership nor other written instrument have been executed by this group which has set up a net worth for the new partnership of \$7000.40, of which \$3935.15 represents the value of the operative right and \$3065.25 represents the value of the equipment and other personal property.

The operating right herein proposed to be transferred was acquired by authority of Decision No. 28333, dated November 6, 1935, and extended, consolidated and restricted by Decision No. 29044, dated August 17, 1936, on application No. 20343.

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

Joseph Palace, Sam Aronson, W. H. Riske and K. D. Crowder, a co-partnership operating under the fictitious name and style of Mount Lassen Fast Freight, are 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 Joseph Palace, Sam Aronson, K. D. Crowder and W. H. Riske shall within twenty (20) days after the effective date of the order herein unite with applicants Joseph Palace, Sam Aronson and Gene Antichi in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicants Joseph Palace, Sam Aronson and Gene Antichi withdrawing and applicants Joseph Palace, Sam Aronson, K. D. Crowder and W. H. Riske accepting and establishing such tariffs and all effective supplements thereto.

3. Applicants Joseph Palace, Sam Aronson and Gene Antichi shall within twenty (20) days after the effective date of the order herein file, in duplicate, in their own names time schedules covering service heretofore given by applicants Joseph Palace, Sam Aronson and Gene Antichi which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicants Joseph Palace, Sam Aronson and Gene Antichi 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 applicants Joseph Palace, Sam Aronson, K. D. Crowder and W. H. Riske unless such vehicle is owned by said applicants or is leased by them 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 the provisions of this Commission's General Order No. 91.

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

Dated at San Francisco, California, this 7th day of September, 1937.

William H. ...
Leon ...

Ray L. Riley
Commissioners