

ORIGINAL

Decision No. 24289

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ERNEST SUNDBERG, to sell and S. W.)
 CORLETT, to purchase an automobile)
 freight line operated between the) Application No. 24289
 city of Sacramento and the County of)
 Lake, State of California, and inter-)
 mediate points.)

BY THE COMMISSION:

O P I N I O N

Ernest Sundberg has petitioned the Railroad Commission for an order approving the sale and transfer by him to S. W. Corlett of operating rights for the automotive transportation as a highway common carrier of property between Sacramento, on the one hand, and points in Lake County, including Lakeport, on the other hand; and S. W. Corlett 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 \$3,481.78. Of this sum, \$2,481.78 is alleged by the applicant to be the value of the equipment and \$1,000 is alleged to be the value of the intangibles.

The operating rights herein proposed to be transferred were created in Ernest Sundberg by Decision No. 33998, dated March 11, 1941, in Application No. 23240.

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

S. W. Corlett 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

Based upon the facts set forth in the above-entitled application, and the Commission being fully advised,

IT IS 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 Ernest Sundberg shall within twenty (20) days from the effective date of the order herein unite with applicant S. W. Corlett in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Sundberg withdrawing and applicant Corlett accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant Ernest Sundberg shall within twenty (20) days from the effective date of the order herein withdraw all time schedules filed in his name with the Railroad Commission and applicant Corlett shall within twenty (20) days from the effective date of the order herein, file in triplicate, in his own name, time schedules covering service heretofore given by applicant Sundberg, which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Sundberg, 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 discontinued unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been obtained.

5. Applicant S. W. Corlett shall comply with the provisions of General Order No. 93-A of the Railroad Commission in the operation of the highway common carrier service herein authorized.

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 23rd day of June, 1941.

Ray L. Kelley

Frank D. Havens
Richard Kachra
COMMISSIONERS