

Decision No. 37166

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

| | |
|--|-----------------------|
| In the Matter of the Application of) | |
| WILLIAM A. SALE and JESSE R. RUGGLES) | |
| dba WINTERS DRAY LINE to lease and) | |
| sell to L. R. CARPENTER the trans-) | Application No. 26146 |
| portation business, properties,) | |
| equipment and operating authority) | |
| herein described.) | |

BY THE COMMISSION:

O P I N I O N

William A. Sale and Jesse R. Ruggles, partners, are presently providing a highway common carrier service for the transportation of fresh fruits and vegetables from Winters and the vicinity thereof, on the one hand, to Oakland and San Francisco, on the other, with a return movement of empty containers, pursuant to the authority of the Commission in Decision No. 26516, rendered November 13, 1933, and Decision No. 29849, rendered June 14, 1937, in Application No. 18920.

In the above entitled application William A. Sale and Jesse R. Ruggles, hereinafter referred to as lessors, request the authority of the Commission to lease to L. R. Carpenter, hereinafter referred to as lessee, the foregoing described operative right, lessors' transportation business, five trucks, two trailers, one grain elevator, five grape tanks, furniture pads, tarpaulins, and other supplies and truck parts, with an option to purchase such property.

According to the application and the lease and purchase agreement attached thereto and marked Exhibit "B," the lessee would take over the foregoing described business and property for a period

of three years beginning on the effective date of the order of the Commission authorizing the proposed lease. This lease arrangement would be at a rental of \$500 a month with the right of lessee to purchase said business and property at the end of such period upon the payment to the lessors of an additional sum of \$5,000 in cash.

The value of the automotive equipment, according to Exhibit "C" attached to the application, is indicated in the margin. (1) The value of the other physical property including a grain elevator, grape tanks, furniture pads, tarpaulins and other supplies, according to Exhibit "C" is \$2,835. For 1943, lessors report revenues of \$19,406.66 and expenses of \$11,600.45. The profit for the year is reported at \$7,806.21. The respective figures for 1942 are \$17,310.38; \$10,846.58, and \$6,463.80. The financial statement of the lessee as indicated by Exhibit "A" attached to the application

(1) STATEMENT SHOWING PROPERTY AND EQUIPMENT TO BE LEASED AND SOLD

Value of Equipment:

| <u>Make</u> | <u>TYPE</u> | <u>Year of Make</u> | <u>Cost</u> | <u>OPA Ceiling Price</u> | <u>Dealers Price</u> |
|------------------|--------------|---------------------|-------------|--------------------------|----------------------|
| 1 Mack Jr. | Truck | 1938 | \$1,850.00 | 1,403.11 | 1,587.60 |
| 1 Ford V 8 | Truck | 1941 | 979.30 | 1,178.22 | 1,327.50 |
| 1 Fageol | Truck & dump | 1930 | 6,900.00 | 2,288.24 | 2,562.82 |
| I Inter-national | Flat truck | 1940 | 4,542.30 | 2,851.87 | 3,270.55 |
| 1 Chevrolet | Pickup | 1939 | 824.00 | 430.13 | 494.64 |
| 1 Utility | Trailer | 1930 | 1,318.17 | 817.76 | 704.20 |
| 1 Utility | Trailer | 1932 | 1,182.00 | 518.76 | 591.38 |
| Totals | | | 17,595.77 | 9,488.09 | 10,538.69 |

(2)
is shown in the margin.

The application states that because of their age and physical condition neither of the lessors is able to actively continue the business involved herein in which they are engaged as partners; that lessee is now engaged in the truck business as a highway contract carrier and desires to expand his business and take over that of lessors, which they have built up over a long period of years, and that the parties feel that it is to their mutual advantage to lease the business and properties involved for a period of three years with the right of the lessee to purchase the business and property at the end of such period should he elect to do so. The Commission will hereafter, if the rent payments become an issue before it, determine how much of such payments, if any, may be included in operating expenses.

(2) Financial Statement of Applicant L. R. Carpenter

| <u>ASSETS</u> | <u>As of</u> <u>12/31/43</u> | <u>As of</u> <u>4/30/44</u> |
|--|---------------------------------|---|
| 1 house and 2 lots | \$ 2,000.00 | \$ 2,000.00 |
| 1 truck tractor, 1 semi-trailer, 1 full-trailer | 9,200.00 | 9,200.00 |
| 1 hay loader | <u>800.00</u> | <u>800.00</u> |
| | \$12,000.00 | \$12,000.00 |
| <u>LIABILITIES</u> | 3,275.00 | 2,003.00 |
| <u>PROFIT AND LOSS STATEMENTS:</u> | | |
| | <u>For year</u> <u>1943</u> | <u>For period</u> <u>1/1/44 to 4/30/44</u> |
| Gross Income | 10,678.58 | 3,261.07 |
| Operating Expenses: | | |
| Labor | 917.10 | 440.00 |
| Repairs | 1543.99 | 349.67 |
| Insurance | 557.67 | 378.66 |
| Gas & Oil | 1379.67 | 584.86 |
| Tires | 775.15 | |
| Bridge Toll | 111.77 | |
| Other Expense | 634.71 | |
| Depreciation | <u>1710.20</u> | <u>1,753.19</u> |
| Profit | 3,048.32 | 1,507.88 |

After a careful review of this application we are of the opinion that the authority sought is in the public interest and should be granted. However, applicants will be required to file a supplemental application with the Railroad Commission requesting its approval of the transfer of the properties involved if such is the desire of the applicants at the end of the lease period. This is not a matter requiring a public hearing.

L. R. Carpenter is placed upon notice that "operative rights" as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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

An application therefor having been filed, and the Commission being fully informed therein,

IT IS ORDERED:

(1) That William A. Sale and Jesse R. Ruggles, partners, are hereby authorized to lease to L. R. Carpenter, and L. R. Carpenter is hereby authorized to lease from William A. Sale and Jesse R. Ruggles on or before August 1, 1944, and hereafter to operate thereunder, the operative right created by the Commission's Decision No. 26516, rendered November 13, 1933, and Decision No.

29849, rendered June 14, 1937, and the equipment and property referred to in the foregoing opinion, pursuant to the terms of an agreement marked Exhibit "B" attached to the application.

(2) That applicants herein shall comply with the rules of the Commission's General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective appropriate tariffs and time tables within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public.

(3) That within 30 days after the execution of the lease between the parties under the authority herein granted a true copy thereof shall be filed with the Railroad Commission.

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

Dated at San Francisco, California, this 27th day of June, 1944.

Justice D. Coe
Francis D. Havenner
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Francis D. Havenner
COMMISSIONERS