

Decision No. 38980

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
AUTOMOTIVE PURCHASING, CO., INC., a)
corporation, for authority to sell and)
transfer to M. A. GILARDY, an indivi-)
dual, highway common carrier operative)
right between San Francisco and Oakland,)
on the one hand, and Sacramento and)
intermediate points, on the other hand.)

ORIGINAL

Application No. 27431

O P I N I O N

This is an application joined in by Automotive Purchasing Co., Inc., a corporation, and M. A. Gilardy, an individual, the former to sell and the latter to purchase, the highway common carrier operative right described in Route 1 below.

Applicant Automotive Purchasing Co., Inc., is now authorized to provide highway common carrier service for the transportation of automotive parts only, and limited to service to automotive parts houses, garages and service stations, as follows:

"Route 1. Between San Francisco and Oakland, on the one hand, and Sacramento, on the other hand, serving the intermediate points of Davis, Dixon, Vacaville, Fairfield and Vallejo, and the off route point of Napa, over U. S. Highway 40 and California Highway 29 from Napa Junction to Napa and return."

In this application, Automotive Purchasing Co., Inc., agrees to sell to Gilardy for the sum of \$8000 the highway common carrier operative right described and which was granted in Decision No. 38754.

(1) Decision No. 38754, dated March 12, 1946, on First Supplemental Application No. 21155. By this decision applicant was also authorized to serve over Route 2 between San Francisco, Oakland and Lodi and intermediate points but this operative right is not involved in the instant proceeding. In Decision No. 38754, the Commission defined transferor's operative right as being over two distinct and separate routes. This application seeks authority to transfer one of these rights, namely the right over Route 1.

By the terms of the Contract of Sale the transferee will pay into escrow the sum of \$1000 upon the execution of that instrument. The balance of \$7000 will be paid within 10 days after final approval of the transfer by the Railroad Commission. No equipment or physical assets are involved in the transaction.

Attached to the application is a statement submitted by transferor which shows the gross revenues derived from the operation here sought to be transferred, to be as follows:

1941	\$ 24,826.39	1945	\$ 30,290.45
1942	21,352.68	Jan. 1946	2,808.81
1943	23,731.52	Feb. 1946	2,558.81
1944	26,074.26		

Transferee owns equipment consisting of tractors and semi-trailers used in his other operations and to a great extent available for the operation proposed to be acquired from Automotive Purchasing Co., Inc. The transferee places his net worth at \$96,500.

With reference to the reasons for the proposed transfer, the application states that Thomas Keller and his immediate family are the sole stockholders of said corporation and that Keller desires to be relieved of some of the responsibilities involved in his present operations.

On the basis of the revenues as above submitted, the purchaser, with the approval of the transfer, should keep his accounts in the manner prescribed for Class II carriers. Section 52 of the Public Utilities Act provides that the Commission shall have no power to authorize the capitalization of any franchise or permit whatsoever or the right to own, operate or enjoy any such franchise or permit in excess of the amount (exclusive of any tax or annual charge) actually paid to the State or to a political subdivision thereof as the consideration for the grant of such franchise or permit. The only filing fee (\$50) that is in its

entirety assignable to said operative right is the one applicable to the instant application. The payment of said \$50 is chargeable to account 152 - franchises and permits. The \$8000 which the purchaser has agreed to pay for said operative right should be charged to account 155 - Other Intangible Capital, and amortized on or before December 31, 1948, by charges to account 720 - income deductions.

This does not appear to be a matter requiring a public hearing and the application should be granted.

O R D E R

IT IS ORDERED as follows:

(1) That Automotive Purchasing Co., Inc., may sell and transfer to M. A. Gilardy, on or before August 31, 1946, the highway common carrier operative right described in the foregoing opinion, and M. A. Gilardy may purchase and acquire said operative right above referred to and thereafter operate thereunder.

(2) That the price paid by M. A. Gilardy for said operative right shall be recorded by him in the manner indicated in the foregoing opinion.

(3) That applicants shall comply with the provisions of 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.

The effective date of this order shall be 20 days from the date hereof.

Dated at San Francisco, California; this 14th day of May, 1946.

Edward Redman
Justice F. Croemer

Frank A. Powell
Harold P. Kelly
COMMISSIONERS