



that it is engaged primarily in the operation of motor vehicles for the transportation of property between the San Francisco Bay and Sacramento area, on the one hand, and points in Oregon, on the other hand, over U. S. Highway 99; and that in addition it conducts operations between Redding and Lakeview, Oregon, over U. S. Highways 299 and 395. For these latter operations it is reported that O. N. C. has acquired certain operative rights from the Interstate Commerce Commission and from the Railroad Commission a certificate of public convenience and necessity, granted by Decision No. 34617, dated September 23, 1941, authorizing the establishment and operation of a highway common carrier service between Redding, Shasta County, and the California-Oregon state line at New Pine Creek, Modoc County, and all intermediate points, via Alturas, including the right to serve laterally two miles on either side of the highway traversed between termini.

It appears that O. N. C. has conducted operations over the Redding-Lakeview route continuously since shortly after it was authorized to do so and that its operating revenues for the twelve months ending June 30, 1946, from the route, aggregated \$66,114.75. It is alleged, however, that the corporation finds it impossible to maintain service on an economical and efficient basis for the reason, among others, that the route involved is removed from its principal operations, and that accordingly it has entered into an agreement to sell and transfer its rights providing for such operations, together with the goodwill attached to the business, to Palmer & Denny for the sum of \$15,000, of which \$1,000 is payable in cash within ten days of the authorization by the Interstate Commerce Commission and the Railroad Commission to consummate the transaction, and the balance will be

payable thereafter in monthly installments of \$400 or more. A copy of the agreement, dated August 2, 1946, has been filed as Exhibit "A" in Application No. 27824. We are advised that it is not the intention to have the purchasers execute a note or other evidence of indebtedness aside from the agreement itself.

It is recited in the application that Palmer & Denny at the present time own two tractors and two semi-trailers which are suitable for line haul operations and that they propose and are in a position to purchase a pick-up and delivery truck and such other equipment as the service may require.

So that the present level of rates may be preserved to the shipping public it is proposed, and authorization is so requested, for O. N. C. and Palmer & Denny to publish a joint freight tariff naming rates, rules and regulations for the transportation of freight between the points to be served by O. N. C. and those proposed to be served by Palmer & Denny. The proposed rates and charges will be the rates and charges as established by the Commission and as presently contained in the tariffs of O. N. C. now on file with the Commission.

The Commission has considered these matters and is of the opinion a public hearing is not necessary and that the requests of applicants should be granted, as provided in the following order. In entering this order the Commission is not making a finding of the value of the rights herein authorized to be transferred. Carl J. Palmer and Ray F. Denny are hereby 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

The Commission having considered the above numbered and entitled proceedings of Oregon Nevada California Fast Freight, Inc., and of Carl J. Palmer and Ray F. Denny, and being of the opinion that the money, property or labor to be procured or paid for through the execution of said agreement of sale is reasonably required for the purpose herein stated, and that such applications should be granted, as herein provided,

IT IS HEREBY ORDERED as follows:

1. Oregon Nevada California Fast Freight, Inc., after the effective date hereof and on or before December 31, 1946, may transfer to Carl J. Palmer and Ray F. Denny the operative rights referred to in the foregoing opinion, and Carl J. Palmer and Ray F. Denny may acquire such rights, such transfer to be made in accordance with the terms of the agreement, dated August 2, 1946, filed as Exhibit "A" in Application No. 27824, which agreement applicants may execute.

2. Oregon Nevada California Fast Freight, Inc., and Carl J. Palmer and Ray F. Denny shall publish a joint freight tariff naming rates, rules and regulations for the transportation of freight between points on the route proposed to be served by Carl J. Palmer and Ray F. Denny and points on the lines of Oregon

Nevada California Fast Freight, Inc., which rates shall be the rates presently contained in the tariffs of Oregon Nevada California Fast Freight, Inc., now on file with the Commission.

3. 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 on not less than one (1) day's notice to the Commission and to the public.

4. The authority herein granted will become effective twenty (20) days from the date hereof, provided that Carl J. Palmer and Ray F. Denny have paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars.

Dated at San Francisco, California, this 24<sup>th</sup> day of September, 1946.

*Harold P. Kule*

*Justus F. Greener*

*Earl H. Lowell*

*R. E. Denny*

Commissioners

