

Decision No. 40633

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
C. W. Overstreet to sell and Leo Earl	:	
Overstreet to purchase an automobile)	Application
freight line operating between Modesto	:	No. 28645
and La Grange, California.)	
-----	:	

ORIGINAL

OPINION AND ORDER

This application shows that C. W. Overstreet is engaged in the operation of an automobile line for the transportation of freight between Modesto and La Grange under operative rights acquired by him pursuant to authorization granted by Decision No. 24795, dated May 23, 1932, and that he now desires to transfer an undivided one-half interest in the business and properties to Leo Earl Overstreet. (1)

The agreement between the two parties, dated July 31, 1947, and filed as Exhibit "A", provides that no consideration will be paid for the assignment of the one-half interest but that Leo Earl Overstreet will engage in the operation of the business and will devote his entire time and attention to it. The application does not indicate that there will be any change in the conduct of the transportation business.

(1)

The present owner's 1946 annual report shows that he operated three units of equipment and that his operating revenues for 1946 were \$5,316.35, and his operating expenses \$3,218.06, leaving net operating income of \$2,098.29.

Applicants 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.

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary and that the application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. C. W. Overstreet, after the effective date hereof and on or before December 31, 1947, may transfer and assign to Leo Earl Overstreet an undivided one-half interest in the rights and properties referred to herein, such transfer and assignment to be in accordance with the terms of the agreement dated July 31, 1947, filed in this proceeding as Exhibit "A".

2. 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 sixty (60) days from the

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

3. The authority herein granted will become effective twenty (20) days from the date hereof.

Dated at San Francisco, California, this 26th day of August, 1947.

Harold A. Kula
Justin J. Casper
Just H. Kull
A. J. [unclear]
Lawrence Potter
Commissioners