

ORIGINAL

Decision No. 41421

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CARL J. PALMER and RAY F. DENNY, co-)
partners, doing business under the firm)
name of PALMER & DENNY, to sell, and) : Application
PAUL L. PETERSON, an individual, doing) : No. 29169
business under the name of MODOC)
TRANSPORT, to purchase an automotive)
freight line.)
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O P I N I O N

Carl J. Palmer and Ray F. Denny, co-partners doing business under the firm name and style of Palmer & Denny, have applied to the Public Utilities Commission for authority to transfer an automotive freight line to Paul L. Peterson.

The application shows that Palmer & Denny are the owners of certain operative rights for intrastate commerce which they acquired pursuant to authority granted by Decision No. 39424, dated September 24, 1946, and certain interstate rights granted by the Interstate Commerce Commission. The operative rights acquired by virtue of said decision originally were granted by Decision No. 34617, dated September 23, 1941, to Oregon Nevada California Fast Freight, Inc. and permit 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 the termini. The present

application indicates that the interstate rights permit certain operations between Redding and Pittville, California, and Lakeview, Oregon. Palmer & Denny for 1947 report their intrastate revenues at \$2,609 and their interstate revenues at \$49,573, a total of \$52,182, with operating expenses, exclusive of any allowance for federal income taxes, of \$40,300, leaving net income of \$11,882.

Applicants Palmer & Denny now report that they have been unable to provide the finances necessary for the efficient and economical operation of the line and that they desire to dispose of it. Accordingly, they have entered into an agreement, dated March 10, 1948, a copy of which is filed in this proceeding as Exhibit "C", whereby they have agreed to transfer their interstate and intrastate operative rights, goodwill and certain automotive and office equipment to Paul L. Peterson for the basic purchase price of \$23,000. Of this agreed purchase price, the sum of \$1,000 was payable upon the execution of the agreement and the balance will be payable within ten days following the receipt of approval from the Interstate Commerce Commission and the Public Utilities Commission for the transfer of the rights and equipment, said balance to be placed in escrow for the payment of certain claims against Palmer & Denny.

The automotive equipment to be transferred includes two White tractors, one Reo truck, one Fruehauf semi-trailer and one homemade trailer. Paul L. Peterson proposes, upon acquiring the property, to provide approximately four additional units of property for the operation.

Information filed with the application indicates that the purchaser should be able to finance and equip the line and to maintain the operations. The transfer accordingly will be authorized.

Paul L. Peterson is 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 Public Utilities Commission having considered the above entitled matter and being 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. Carl J. Palmer and Ray F. Denny, after the effective date hereof and on or before July 31, 1948, may transfer to Paul L. Peterson the operative rights acquired by them pursuant to Decision No. 39424, dated September 24, 1946, and the automotive and office equipment referred to in the preceding opinion,

such transfer to be in accordance with the terms of the agreement dated March 10, 1948, filed in this proceeding as Exhibit "C".

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

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

Dated at San Francisco, California, this 6th day of April, 1948.

A. J. Anderson
Justus F. Quenneville
Harold P. Hull
Committee on Public Utilities
Commissioners