

ORIGINAL

Decision No. 42881

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
G. W. SUNDBORG to sell, and THOMAS J.)
REED to purchase an automobile freight)
line operated between Sonora and Pine-)
crest, and intermediate points via)
Twain Harte, Long Barn, and Strawberry,)
California; and in the Matter of)
THOMAS J. REED for authority to extend)
the certificates of public convenience)
and necessity, held by G. W. SUNDBORG,)
defined by Decision No. 41589 from)
Pinecrest and Strawberry to Dardanelle.)

Application No. 30241

OPINION

G. W. Sundborg seeks authority to sell, and Thomas J. Reed seeks authority to purchase, an operative right authorizing highway common carrier operations between Sonora and Pinecrest and intermediate points and one 1947 G.M.C. 3/4-ton truck used in such operations. Applicants also seek a certificate of public convenience and necessity authorizing the extension of service to Dardanelle and intermediate points, including Cow Creek and Tuolumne.

The present operative right is covered by a certificate of public convenience and necessity granted by Decision No. 20573, dated December 13, 1928, in Application No. 14785, as amended by Decision No. 41589, dated May 18, 1948, in Application No. 29217.

The proposed consideration for the contemplated transfer is \$2,500. Of this amount, it is claimed that \$1,250 represents the value of the equipment and the balance the value of the operative right. A payment of \$2,000 is to be made upon authorization of the transfer and the balance of \$500 within 11 months thereafter. The transferor intends to execute a conditional sales contract

covering the motor vehicle providing for payment of the \$500. It is not clear from the application and agreement attached thereto whether the actual transfer of the operative right is to be withheld until the final payment has been made.

In support of the proposed extension of operations, the verified application states that no common carriers are authorized to render service between the points involved; that the population in the territory is increasing; and that sufficient revenue is believed to be available to justify the operation. An on-call service is proposed.

No protests against the granting of the application have been received. A public hearing does not appear to be necessary.

Authority to sell and purchase the operative right and property will be granted, subject to the condition that the transfer of the operative right be consummated at the time the initial payment is made.

Upon the facts appearing in the verified application, we find that public convenience and necessity require the operation of a highway common carrier between Pinecrest and Strawberry, on the one hand, and Dardanelle and intermediate points, on the other hand. Our order will provide for the granting of such a certificate to Sundborg and for the inclusion thereof in the proposed transfer.

Thomas J. Reed 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 of 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.

ORDER

Application as above entitled having been made and based upon the conclusions and findings set forth in the preceding opinion,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it is hereby granted to G. W. Sundborg authorizing the establishment and operation of service as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of property between Pinecrest and Strawberry, on the one hand, and Dardanelle and intermediate points, on the other hand.

(2) That in providing service pursuant to the certificate herein granted, G. W. Sundborg shall comply with and observe the following service regulations:

- (a) G. W. Sundborg shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days after the effective date hereof.
- (b) Within 60 days after the effective date hereof and on not less than 5 days' notice to the Commission and the public, G. W. Sundborg shall comply with the provisions of General Orders Nos. 80 and 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time schedules.

(c) Subject to the authority of this Commission to change or modify it by further order, G. W. Sundborg shall conduct operations pursuant to the certificate herein granted over and along State Highway Route 108.

(3) That G. W. Sundborg may, after the effective date hereof, and on or before August 1, 1949, sell and transfer, and Thomas J. Reed may purchase and acquire the operative right, including the certificate herein granted, and property to which reference is made in this decision. Such sale and transfer shall be made pursuant to the terms and conditions set forth herein.

(4) That G. W. Sundborg and Thomas J. Reed shall upon consummating the sale and transfer herein authorized comply with the provisions of General Orders Nos. 80 and 93-A, by filing, in triplicate, and concurrently making effective on not less than 5 days' notice to the Commission and the public, appropriate tariffs and time schedules.

This order shall become effective 20 days after the date hereof.

Dated at San Francisco, California, this 17th
day of May, 1949.

R. F. Johnson
Arthur F. Galvin
Paul H. Russell

COMMISSIONERS