

Decision No. 43478

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
PAUL LUDOLPH COMPANY to sell and)
JULIUS PETERSEN to purchase an auto-) Application No. 30664
motive freight line operated between)
San Francisco and Oakland and various)
points in Marin and Sonoma Counties.)

O P I N I O N

By their joint application, Paul Ludolph Company (the seller) and Julius Peterson (the buyer) request authority to sell and purchase the operative rights presently held by the seller for the transportation of milk and dairy products between San Francisco and Oakland and various points in Marin and Sonoma Counties. The operative rights proposed to be transferred were created by Decision No. 29770, as amended by Decision No. 31171, in Application No. 21168.

The sale and transfer involves the operative rights only, for which the consideration of \$12,000 is to be paid by the purchaser. The terms of the agreement require an initial payment of \$1,000 with the \$11,000 balance payable at the rate of \$1,000 a month.

The financial statement of Ludolph Company for the year 1948 indicates a net operating loss of \$14,460 for the whole of its operations. The financial statement of Julius Peterson for the year 1948 discloses a net worth of approximately \$24,000.

Applicant Petersen is presently engaged in the transportation of milk and dairy products from various points in Marin and Sonoma Counties to San Francisco for the Borden's Dairy Delivery Company, and would use equipment presently owned to continue the service now provided by the seller.

After full consideration of all the evidence herein, we find that the authorization of the proposed transfer would not be adverse to the public interest. Therefore, the application will be granted. A public hearing is not necessary.

Julius Petersen 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

Application having been made in the above entitled matter and the Commission being fully advised,

IT IS ORDERED:

(1) That after the effective date hereof and on or before January 2, 1950, the Paul Ludolph Company may sell and transfer to Julius Petersen and the latter may acquire from the former and thereafter operate thereunder, the operative rights created by Decision No. 29770, in Application No. 21168, and as amended by Decision No. 31171, in Application No. 21168.

(2) That within 30 days after consummation of the transfer herein authorized, Julius Petersen shall notify the Commission in writing of that fact and within said period shall file with the Commission a true copy of any bill of sale or other

instrument of transfer which may be executed to effect said transfer.

(3) That after the effective date hereof and on or before January 2, 1950, applicants shall comply with the provisions of the Commission's 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 5 days' notice to the Commission and the public.

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

Dated at San Francisco, California, this 1
day of November, 1949.

R. E. Induray

Justin D. O'Brien

Wm. L. Russell.

David T. Fulk

Thymus

COMMISSIONERS