

ORIGINAL

Decision No. 43673

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MILTON D. WOLGAMOTT to transfer, and)
JOSEPH C. SILVERIA to acquire, an)
automotive freight line.)

Application No. 30852

O P I N I O N

The Commission is herein requested to authorize Milton D. Wolgamott, who is conducting a highway common carrier service between Martinez, Crockett and Vallejo, on the one hand, and Benicia and Benicia Arsenal, on the other hand, to sell his operative rights⁽¹⁾ to Joseph C. Silveria. No physical property is involved in the proposed transfer.

The contract between the parties involved (a copy of which is attached to the application and marked Exhibit A) provides that Silveria is to pay \$600 in cash for the operative rights and an assignment of Wolgamott's interest in an agreement between him and Railway Express Agency, Inc., dated March 24, 1949, and an agreement supplemental thereto dated June 27, 1949. The \$600 is

(1) Decision No. 42402 dated January 14, 1949, granted to applicant Wolgamott the operative rights proposed to be transferred, between the points above specified, limited as follows:

- (a) To the transportation of shipments moving under the billing of Railway Express Agency, Inc., an express corporation, as an underlying carrier for the latter; and
- (b) To the transportation of baggage, and shipments of milk and cream or empty containers therefor, which have had or will have, in addition to the movement by applicant, a prior or a subsequent movement by rail.

to be paid by Silveria directly to Lupe C. Aleman and K. K. Atkinson, doing business as Arrow Transportation Service, a limited partnership, who agree to receive said payment in full satisfaction of all outstanding indebtednesses of Wolgamott as the result of the transfers made to him by Aleman and Atkinson pursuant to Decision No. 42402, dated January 14, 1949.

The application discloses that Silveria possesses two trucks, sufficient cash to pay the agreed purchase price, and that he is operating under permits issued by this Commission as a radial highway common carrier and a city carrier, with headquarters in Benicia.

A public hearing does not appear to be necessary in this matter. We find that the public interest will not be adversely affected by approval of the transfer of the operative rights hereinabove specified. The application will, therefore, be granted. However, the action taken herein shall not be construed to be a finding of the value of the operative rights or property involved.

Joseph C. Silveria is hereby placed on 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 as above entitled having been filed and the Commission having found that the public interest would not be adversely affected,

IT IS ORDERED:

(1) That Milton D. Wolgamott, after the effective date hereof and on or before March 31, 1950, may sell and transfer to Joseph C. Silveria the operative rights and agreements referred to herein, and said Joseph C. Silveria may acquire and thereafter operate the same, such sale and transfer to be made in accordance with the terms of the contract attached to the application as Exhibit A.

(2) Milton D. Wolgamott and Joseph C. Silveria 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 days after the effective date hereof, and 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 10th day of January, 1950.

A. Z. [Signature]
[Signature]
[Signature]
[Signature]
COMMISSIONERS