

ORIGINAL

Decision No. 44546

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PAUL LUDOLPH COMPANY to sell and
TED PETERS to purchase an automotive
freight line operated between San
Francisco and Bay Area points and
various points in the San Joaquin
Valley.

Application
No. 31622

O P I N I O N

This application shows that Paul Ludolph Company is engaged in business as a highway common carrier for the transportation of milk and various milk products between (a) San Francisco, Oakland, Emeryville, Piedmont, Berkeley, Albany, Alameda, San Leandro, Hayward and intermediate points; and (b) San Francisco, San Mateo, Palo Alto, Santa Clara, Los Gatos, San Jose and intermediate points, on the one hand, and Dublin, Santa Rita, Pleasanton, Tracy, Stockton, Galt, Manteca, Modesto, Los Banos and intermediate points, on the other hand, under a certificate of public convenience and necessity granted by Decision No. 29769, dated May 17, 1937. It now desires to withdraw from such operations and accordingly asks permission to transfer its operative rights to Ted Peters. It does not propose to transfer any tangible property.

The agreed purchase price is \$2,000 payable in monthly installments of \$50, or more, without interest, said amount to be represented by an unsecured promissory note in the form filed in this proceeding as Exhibit A. The application shows that Ted Peters is, and for many years has been, engaged in business as a highway carrier for various industries and that

in the latter part of 1949 he was authorized by the Commission to operate as a highway common carrier of certain commodities generally between certain points in the San Joaquin Valley and points in the San Francisco Bay Region. It appears that he has sufficient equipment to conduct the operations he proposes to acquire from Paul Ludolph Company and that financially he is in the position to maintain the service.

Ted Peters 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.

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

ORDER

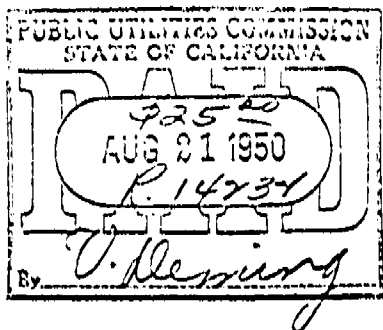
The Commission having considered the above entitled matter and being of the opinion that a public hearing thereon is not necessary; that the proposed transfer will not be adverse to the public interest; that the money, property or labor to be procured or paid for through the issue of the note herein authorized is reasonably required by Ted Peters for the purpose specified herein; and that such purpose is not, in whole or in part,

reasonably chargeable to operating expenses or to income;
therefore,

IT IS HEREBY ORDERED as follows:

1. Paul Ludolph Company, after the effective date hereof and on or before December 31, 1950, may transfer to Ted Peters the certificate of public convenience and necessity heretofore granted by the Commission by Decision No. 29769 dated May 17, 1937.
2. Ted Peters, after the effective date hereof and on or before December 31, 1950, in payment for said certificate, may issue his promissory note in the aggregate amount of not exceeding \$2,000, said note to be in, or substantially in, the same form as that filed in this proceeding as Exhibit A.
3. 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 schedules within 60 days from the effective date hereof and on not less than one day's notice to the Commission and to the public.
4. Ted Peters shall file with the Commission a report as required by General Order No. 24-A which order, insofar as applicable, is made a part of this order.
5. The authority herein granted will become effective when Ted Peters has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is \$25.00.

Dated at San Francisco, California, this 15th
day of August 1950.



R. Z. [unclear]
Justus F. [unclear]
August Lowell
Harold H. [unclear]
Herbert [unclear]

Commissioners