

ORIGINAL

Decision No. 45228

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
HUMBOLDT MOTOR STAGES, INC., REDDING- )  
EUREKA FREIGHT LINES, and DON HEMSTED, )  
doing business as TRICOUNTY NORTHERN )  
TRANSPORT, for authority (1) for the )  
two first named applicants to transfer, )  
and the last named to acquire, certain )  
operative rights and equipment, and (2) )  
for the last named to issue a promissory )  
note therefor. )

Application No. 31879

J. Richard Townsend for applicants.  
Hal F. Wiggins for Field Division and  
Department of Finance and Accounts,  
Public Utilities Commission of the  
State of California.

O P I N I O N

Decision No. 41536, dated April 27, 1948, in Application No. 29230 authorized Humboldt Motor Stages, Inc. to lease to Redding-Eureka Freight Lines, with an option to purchase, an operative right as a highway common carrier for the transportation of property between Willow Creek, Redding, Mad River, Minersville and intermediate points, as well as certain automotive equipment. A certificate of public convenience and necessity was also granted by the same decision, authorizing Redding-Eureka Freight Lines to operate as a highway common carrier for the transportation of property between Willow Creek, Redding, Mad River and Minersville, excluding Willow Creek, on the one hand, and, on the other hand, Scotia, Trinidad, Willow Creek and intermediate points via Eureka, Arcata and Blue Lake, excluding Willow Creek.

By the application in this proceeding, Humboldt Motor Stages, Inc. and Redding-Eureka Freight Lines seek authority to transfer, and Don Hemsted, doing business as Tricounty Northern Transport, seeks

authority to acquire, the highway common carrier operative rights hereinabove described, together with the automotive equipment presently leased from Humboldt Motor Stages, Inc. to Redding-Eureka Freight Lines. Hemsted also seeks authority to issue a promissory note to Humboldt Motor Stages, Inc. A public hearing was held before Examiner Bradshaw at Redding.

According to the evidence, Redding-Eureka Freight Lines has been in default since July, 1950, in making rental payments provided in the existing lease. Its president testified that the carrier is not in a financial position to continue operations and desires to be relieved of its obligations as soon as possible. Humboldt Motor Stages, Inc., on the other hand, does not desire to resume the operations, claiming that the principal business of the line is at Redding and the maintenance of headquarters at Eureka, where its principal place of business is located, would prove a handicap from a supervisory standpoint.

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A proposed agreement ~~between~~<sup>among</sup> the three applicants provides that the operative rights and automotive property shall be transferred to Hemsted in consideration of a purchase price of \$5,000 to be paid to Humboldt Motor Stages, Inc. in the following manner: The sum of \$1,000 upon the consummation of the transfer, the balance to be evidenced by an unsecured promissory note, payable in three years at the rate of \$111.11 a month, plus interest on the unpaid principal at five per cent per annum. The agreement further provides that Humboldt Motor Stages, Inc. will waive its claim against Redding-Eureka Freight Lines for all unpaid rent outstanding under the existing lease; that said leasing arrangement shall terminate; and that these two applicants shall deliver to each other instruments releasing such parties from all of their outstanding claims and demands. It is alleged that the present market value of the equipment to be

transferred is \$1,375.

Applicant Hemsted testified that he has engaged in highway carrier operations since 1934. In addition to having permits to operate as a radial highway common carrier, highway contract carrier and city carrier, he possesses a certificate authorizing operations as a highway common carrier for the transportation of used household goods, new furniture and household appliances between the San Francisco Bay area and the California-Oregon state line, including certain intermediate territory, granted by Decision No. 44624, dated August 8, 1950, in Application No. 30546. According to the record, Hemsted also holds a certificate authorizing transportation as an interstate common carrier over irregular routes between Redding and points and places in Tehama, Shasta, Trinity and Siskiyou counties.

Hemsted further asserted that he proposes to maintain terminal facilities at several points on the routes now operated by Redding-Eureka Freight Lines. Because of its poor condition, he does not intend to use in this service the equipment to be acquired by virtue of the application herein, but will operate two tractors and trailers as well as a low-bed dray. It is proposed to continue existing joint rates with connecting carriers. In Hemsted's opinion, the operation can be conducted at a profit and a better service will be rendered than that now available to the public.

Hemsted's balance sheet as of July 31, 1950, was received in evidence. The figures are summarized in the following tabulation:

Assets

Current Assets	\$ 10,631.59
Investment	1,000.00
Fixed assets	81,341.42
Deferred Expenses	1,138.15
Other Assets	<u>10,700.00</u>
Total	\$104,811.16

Liabilities

Current Liabilities	\$ 5,474.45
Long-Term Obligations	17,302.67
Net Worth	<u>82,034.04</u>
Total	\$104,811.16

The record indicates that very unsatisfactory conditions have prevailed during the last several years as a result of the operations of Redding-Eureka Freight Lines. During the early part of 1949 the Commission instituted an investigation into certain of this carrier's operations and practices (Case No. 5082). By Decision No. 43202, dated August 9, 1949, we found, among other things, that the carrier had failed to remit to consignors moneys collected on C.O.D. shipments as directed by the Commission's regulations and as provided for in its published tariffs. Believing that the suspension or revocation of Redding-Eureka Freight Lines' operative rights would prevent it from making restitution, in addition to depriving the public of common carrier service, submission of the proceeding was set aside and the matter reopened for further hearing not earlier than 90 days thereafter.

According to evidence introduced at the further hearing, Redding-Eureka Freight Lines continued in its failure to remit C.O.D. collections within the required period and the amount of outstanding unremitted C.O.D. moneys as of May 31, 1950 was substantially greater than existed on June 30, 1949, a few days before the original hearing. By Decision No. 44931, dated October 24, 1950, this carrier was

directed to cancel all arrangements for handling C.O.D. shipments. An exhibit of record in this proceeding presented by an accountant in the employ of the Commission, based upon an examination of the carrier's records, purports to indicate that, in addition to an unpaid note executed in lieu of C.O.D. remittances, unremitted C.O.D. collections, as of November 28, 1950, aggregated \$3,405.07.

It is Hemsted's intention, according to his testimony, to handle C.O.D. shipments. He stated that such a service is important to consignees in the territory involved; that his practice is to remit collections immediately upon receipt; that he now possesses a C.O.D. bond in the required amount; and that he proposes to obtain a separate bond to cover shipments moving between points embraced in the operative rights sought to be acquired.

It has been suggested that a condition be imposed in the order in this proceeding making provision for the payment of the unremitted C.O.D. moneys and similar liabilities of Redding-Eureka Freight Lines. Counsel for applicants, in objecting to any such condition, asserted that the Commission is not a collection agency and cited several decisions of the Interstate Commerce Commission in motor carrier transfer proceedings, in which requested provisions for claims of creditors were rejected. He also expressed the view that the order herein would be permissive in nature and called attention to testimony given by Hemsted that he would not be interested in conducting the operations here involved if required to assume any indebtedness of Redding-Eureka Freight Lines.

In its decisions in Case No. 5082, the Commission recognized as inexcusable the unlawful practices of Redding-Eureka Freight Lines and took such action as it believed the circumstances justified, bearing in mind, however, the necessity of common carrier service in

the territory being served by this carrier. In considering the application in the instant proceeding, we adhere to the view that the continuance of such a service is of paramount importance. The record, in our opinion, does not justify attaching a condition, such as suggested, to an order approving the proposed transaction.

Upon the facts of record, the Commission finds that the public interest will not be adversely affected by approval of the transfer of operative rights and property with which we are here concerned. The necessary authority will, therefore, be granted. However, the action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

We further find, upon the record in this proceeding, that the money, property or labor to be procured and paid for by Hemsted through the issuance of the promissory note herein authorized is reasonably required by him for the purpose herein stated.

O R D E R

Application as above entitled having been filed, a public hearing having been held thereon and based upon the evidence received and the conclusions and findings set forth in the preceding opinion,

IT IS ORDERED:

(1) That Humboldt Motor Stages, Inc., after the effective date hereof and on or before February 1, 1951, may sell and transfer to Don Hemsted, and the latter may acquire and purchase, the highway common carrier operative rights of Humboldt Motor Stages, Inc. presently leased to Redding-Eureka Freight Lines, as described in the preceding opinion, and the automotive equipment, to which reference is made in this decision. Said sale and transfer shall be subject to the

terms and conditions set forth in the agreement, a copy of which appears as Exhibit "B" attached to the application on file herein.

(2) That Redding-Eureka Freight Lines, after the effective date hereof and on or before February 1, 1951, may sell and transfer to Don Homsted, and the latter may acquire and purchase, the certificate of public convenience and necessity granted to Redding-Eureka Freight Lines by Decision No. 41536, dated April 27, 1948, in Application No. 29230. Said sale and transfer shall be subject to the terms and conditions set forth in the agreement, a copy of which appears as Exhibit "B" attached to the application on file herein.

(3) That Don Homsted be and he is hereby authorized, on or before February 1, 1951, to issue an unsecured promissory note payable to Humboldt Motor Stages, Inc. in the principal sum of \$4,000.00, with interest at the rate of five (5) per cent per annum, for the purpose of acquiring the operative rights and other property to which reference is made in paragraph (1) of this order, said note to be payable as stated in the preceding opinion.

(4) That the authority herein granted is subject to the following conditions:

- (a) The authority herein granted to issue a promissory note will become effective when Don Homsted has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is \$25.00.
- (b) Within thirty (30) days after the consummation of the transfers herein authorized, or either of them, Don Homsted shall notify the Commission in writing of that fact and shall, within said period, file with the Commission a true copy of any bill of sale or other instrument or transfer which may have been executed to effect said transfers or transfer.

- (c) Within thirty (30) days after the execution thereof, Don Hemsted shall file with the Commission a true copy of the promissory note issued pursuant to the authority herein granted.
- (d) 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 on not less than five days' notice to the Commission and the public.

Except as herein otherwise expressly provided, the effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 3rd day of January, 1951.

R. B. Anderson  
Harold Hule  
Frederick Potter

COMMISSIONERS

