

**ORIGINAL**Decision No. 49399

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 William H. Schultz to sell and )  
 Glenn E. & Anita Barnes to purchase )  
 an automotive Freight Line operated ) Application No. 34841  
 between Covelo to San Francisco and )  
 Petaluma and Santa Rosa to Covelo, )  
 California. )

O P I N I O N

By Decision No. 42938, dated June 1, 1949, in Application No. 30211, Arnold W. Ogle, Vard A. Ogle and John W. Banks, doing business as Banks and Ogle, were granted a certificate of public convenience and necessity to operate as a highway common carrier for the transportation of (1) livestock from Covelo and a 30-mile radius thereof to South San Francisco, and (2) general commodities, including livestock and liquid petroleum products (in tank trucks) but excluding uncrated household goods and office equipment, from Petaluma and Santa Rosa to Covelo.

Early in 1952 Banks and Ogle, under Application No. 32833, requested authority to transfer the operative rights (except the one relating to petroleum products) to William H. Schultz, doing business as Schultz Trucking Service. The sought authority was granted by Decision No. 46858 issued on March 17, 1952.

William H. Schultz seeks, by the instant application, to transfer his operative rights, two trucks and a trailer to Glenn E. Barnes and Anita Barnes, who join in the application. The purchase price agreed upon is \$7,500, of which \$3,000 is to be paid as the down payment and the balance to be paid as hereinafter indicated.

A copy of the sales agreement of the parties is annexed to the application. In addition to the applicants, Banks and Ogle were included in it and will receive certain payments. One hundred ninety-seven dollars, designated as a "time price differential", has been added to the \$4,500 balance. Fourteen monthly installments ranging down from \$176.41 to \$167.24 are to be paid to Banks and Ogle and a fifteenth installment of \$2,292.88 is to be paid to William H. Schultz who will also receive the down payment.

It appears that the sales agreement of the parties is an evidence of indebtedness providing, in part, for payments later than 12 months after its date. In the opinion of the Commission the money, property or labor to be procured or paid for through the execution of the same is reasonably required by Glenn E. Barnes and Anita Barnes for the purpose specified therein, and such purpose is not, in whole or in part, reasonably chargeable to operating expense or to income.

The Commission has considered this matter and is of the opinion and finds that a public hearing is not necessary, that the proposed transfer will not be adverse to the public interest and should be authorized. In taking this action we are making no finding of the value of the operative rights and property involved.

Glenn E. Barnes and Anita Barnes are 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.

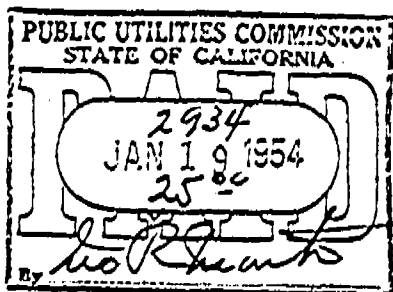
O R D E R

An application having been filed and the Commission being of the opinion that the authority requested should be granted,

IT IS HEREBY ORDERED that:

1. William H. Schultz, doing business as Schultz Trucking Service, after the effective date hereof and on or before January 31, 1954, may sell and transfer to Glenn E. Barnes and Anita Barnes the operative rights and property referred to herein and the latter may acquire and thereafter operate the same, such sale and transfer to be made in accordance with the terms of the sales agreement attached to the application herein, which agreement applicants are authorized to execute.
2. Within thirty days after completion of the transfer herein authorized Glenn E. Barnes and Anita Barnes shall notify the Commission in writing of that fact and within said period shall file with it a true copy of the bill of sale executed by William H. Schultz to effect the transfer. That said bill of sale shall have been approved by Banks and Ogle, a copartnership consisting of John Banks, Vard Ogle and Arnold Ogle.
3. Within sixty days after the effective date hereof, and on not less than five days' notice to the Commission and the public, applicants shall file in triplicate appropriate tariffs and time tables showing that William H. Schultz has withdrawn or canceled and Glenn E. Barnes and Anita Barnes have concurrently adopted or established as their own said rates, rules and regulations and schedules.
4. The authority granted herein will become effective when Glenn E. Barnes and Anita Barnes have paid the minimum fee prescribed by Section 1904(b) to the Public Utilities Code, which fee is \$25.

Dated at San Francisco, California, this 8<sup>th</sup> day of December, 1953.



R. F. [Signature] President  
Justice J. [Signature]  
[Signature]  
[Signature]  
[Signature] Commissioners