

**ORIGINAL**

Decision No. 49866

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
ELMER C. GARDNER to sell, and LEONARD )	
SHAHA to buy an automotive passenger )	Application No. 35195
and freight line in the County of )	
Humboldt. )	

O P I N I O N

By application filed February 26, 1954, Elmer C. Gardner, doing business as Petrolia Stage, seeks authority to sell and Leonard Shaha seeks authority to purchase the remaining operative rights issued by Decision No. 32821, dated February 20, 1940, in Application No. 23275. Operative rights between Honeydew and South Fork also granted by said Decision No. 32821 were abandoned pursuant to Decision No. 48690, dated June 9, 1953, in Application No. 34302.

The purchase price to be paid for the operative rights is the sum of \$500 together with one half of the cost of processing this application. Payments are as follows:

Fifty dollars was paid when the agreement was signed in January 1954 and the purchaser has agreed to pay \$50 on the fifteenth of each month thereafter until the purchase price is paid in full. All deferred payments bear interest at the rate of seven per cent per annum and all payments shall first be applied to interest and the balance to the principal.

As justification for the relief asked, the application alleges that applicant Gardner has lost the government contract to carry the mail between Ferndale and Honeydew and applicant Shaha now has that contract; that the operation of carrying freight and passengers between said points is unprofitable unless run in conjunction with the carrying of the United States mail; that under the present

situation there is duplication of equipment and drivers over the route; and that it would be to the best interests of all concerned for the two operations to be thus combined.

The Commission has considered applicants' request and finds that the proposed transfer will not be adverse to the public interest and should be authorized. A public hearing is not necessary.

Leonard Shaha 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 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 made, and the Commission being fully advised in the premises,

IT IS ORDERED:

(1) That Elmer C. Gardner, doing business as Petrolia Stage, may, after the effective date hereof, and on or before the first of June 1954, sell and transfer and Leonard Shaha may purchase the operative rights to which reference is made in Application No. 35195. Such sale and transfer shall be made pursuant to the terms and conditions set forth in the contract, a copy of which is attached to said application.

(2) That within said period after the effective date hereof, applicant Shaha shall notify the Commission in writing of the fact of

transfer and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may have been executed to effect such transfer.

(3) That the action taken herein shall not be construed to be a finding of the value of the operative rights herein authorized to be transferred.

(4) That in accordance with the Commission's General Orders Nos. 79 and 80 and concurrently with the transfer authorized by ordering paragraph (1) hereof, on not less than five days' notice to the Commission and the public, applicant Gardner shall within said period institute service and unite with applicant Shaha in common supplements to the tariffs of seller, said Gardner withdrawing and said Shaha adopting and establishing such tariffs and all effective supplements thereto, and at the time of said transfer applicant Shaha shall also file in triplicate the adoption of the seller's time schedules or in the alternative file in triplicate and concurrently make effective time schedules satisfactory to the Commission.

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

Dated at San Francisco, California, this 30<sup>th</sup> day of March, 1954.

[Signature]  
President  
[Signature]  
[Signature]  
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Commissioners