

ORIGINALDecision No. 52333

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application for)
 transfer of ROY E. FORD'S interest)
 in partnership with O. E. PRITCHARD) Application No. 37431
 doing business as H. & W. Produce)
 Transport. (See Decision No. 51648))

O P I N I O N

O. E. Pritchard and Roy E. Ford, partners, doing business as H. & W. Produce Transport, have authority from this Commission to transport fruits, fresh or green (not cold pack or frozen); vegetables, fresh or green (not cold pack or frozen), including mushrooms, fresh, between Fresno, on the one hand, and San Jose and Los Angeles, on the other hand, which authority does not include the right to render service from, to or between intermediate points.¹

On September 12, 1955, they executed an Agreement For Dissolution of Partnership.² By the application herein, filed on October 26, 1955, O. E. Pritchard seeks authority to purchase the interest of Roy E. Ford in the assets of the partnership, including the automotive equipment,³ and the certificate of public convenience and necessity referred to above. As consideration for the transfer to him of the Roy E. Ford's interest in said equipment and rights, O. E. Pritchard will pay to Roy E. Ford the sum of \$5000.00, \$3500.00 of which was payable on September 12, 1955, and \$1500.00 of which is payable within

¹ Decision No. 51648, dated July 5, 1955, in Application No. 36154.

² Exhibit "A" on the application.

³ Exhibit "F" on the application.

six months after September 12, 1955. In addition, Roy E. Ford is to receive a 1952 model Chevrolet pickup truck, and is to be relieved of all responsibility as between the partners for the debts of the partnership.⁴

No reason is given for the proposed transfer other than that the parties have agreed thereto.

It appears that the purchaser will be able to continue the the business inasmuch as he is one of the present partners, is receiving all of the assets of the partnership less one Chevrolet pickup truck, and the business appears to be in a sound financial condition.⁵

In our opinion the proposed sale is not adverse to the public interest. The application will be granted. A public hearing is not necessary. The action taken herein shall not be construed to be a finding of value of the property authorized to be transferred.

It appears that O. E. Pritchard and Roy E. Ford have not as yet filed tariffs and a written acceptance of the certificate granted by Decision No. 51648 as required by the provisions thereof. The order which follows will direct O. E. Pritchard so to do.

O. E. Pritchard 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

⁴ Exhibit "A" on the application.

⁵ See Exhibits "D" and "E" in the application.

route. This monopoly feature may be changed or destroyed at any time by the state, which is not, in any respect, limited as to the number of rights which may be given.

O R D E R

Application having been made and the Commission having been fully advised in the premises and having found that the proposed transfer is not adverse to the public interest,

IT IS ORDERED:

(1) That within thirty days after the effective date hereof, O. E. Pritchard shall file a written acceptance of the certificate granted by the terms of Decision No. 51648, dated July 5, 1955, in Application No. 36154.

(2) That Roy E. Ford may sell and transfer to O. E. Pritchard within thirty days after the effective date of this order Roy E. Ford's interest in the operating rights and equipment referred to in the opinion herein for the sum of \$5000.00, \$3500.00 of which has heretofore been paid, and \$1500.00 of which is payable on or before March 12, 1956, in accordance with the terms of the agreement attached to the application and marked Exhibit "A".

(3) That within thirty days after the consummation of the transfer herein authorized, the seller and the buyer, or either of them, shall notify the Commission in writing of that fact.

(4) That within sixty days after the effective date hereof and on not less than five days' notice to the Commission and to the public, O. E. Pritchard shall establish the service authorized by said Decision No. 51648 and file in triplicate, and concurrently make

effective tariffs satisfactory to this Commission.

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

Dated at San Francisco, California, this 5th day of December, 1955.

John E. McMill
President

Justin J. Coates

Ralph M. Kerner

Michael J. Kelly

R. J. Hardy

Commissioners