

ORIGINAL

Decision No. 52727

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of GLENN E. BARNES and)
ANITA BARNES (Barnes Trucking Serv-)
ice), to transfer a highway common)
carrier certificate to MERVIN E.)
LEE (Lee Trucking Co.).)

Application No. 37671

O P I N I O N

By Decision No. 49399 dated December 8, 1953, in Application No. 34841, the certificate of public convenience and necessity issued to Arnold W. Ogle, Vard A. Ogle and John W. Banks, authorizing (1) the transportation of livestock from Covelo and a 30-mile radius thereof to San Francisco and (2) general commodities, except uncrated household goods and office equipment, from Petaluma and Santa Rosa to Covelo, was transferred to applicants Glenn E. and Anita Barnes. These rights had been originally granted to Arnold W. Ogle, Vard A. Ogle and John W. Banks by Decision No. 42938 dated June 1, 1949, in Application No. 30211.

By the present application filed January 20, 1956, Glenn E. Barnes and his wife Anita Barnes request authority to transfer said rights to Mervin E. Lee. The equipment of the sellers also is to be transferred to applicant Lee as well as permits as radial highway common carrier, highway contract carrier and petroleum contract carrier, the transfer of which have heretofore been authorized.

The consideration for the transfer consists of \$395 cash for the amount assigned as payment for operative rights and the transfer to sellers of some logging equipment as consideration for the sellers' equipment. From the financial statement attached to the application it appears that the purchaser has sufficient financial

ability to carry on the operation authorized by the operative rights to be transferred. The purchaser is qualified by experience. The reason stated for the proposed transfer is the breakdown of health of Glenn E. Barnes.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary. The proposed transfer of operative rights and equipment is found not to be adverse to the public interest and will be authorized. In authorizing the transfer the Commission is not making any finding as to the value of the operative rights or of the property involved.

Mervin E. Lee 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 as to the number of rights which may be given.

O R D E R

Application therefor having been filed and the Commission having found that the proposed transfer will not be adverse to the public interest,

IT IS HEREBY ORDERED that:

1. Glenn E. Barnes and Anita Barnes after the effective date hereof and on or before May 1, 1956, may sell and transfer to Mervin E. Lee 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 agreement attached to the application

except that the only consideration to be paid or delivered by the purchaser shall be \$395 cash and a logging truck and dolly.

- 2. Within thirty days after completion of the transfer herein authorized Mervin E. Lee shall notify the Commission in writing of that fact and within said period shall file with it a true copy of any bill of sale or other instrument executed to effect such transfer.
- 3. On or before May 1, 1956, and on not less than five days' notice to the Commission and to the public, applicants Glenn E. Barnes and Anita Barnes shall join with Mervin E. Lee to amend tariffs on file with the Commission to show that they have withdrawn and that Mervin E. Lee has adopted as his own said tariffs.

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

Dated at San Francisco, California, this 10th day of March, 1956.

(John E. ...)
President

Justin J. Craemer

Paul Winters

William Dooling

W. Hardy
Commissioners