

ORIGINAL

Decision No. 54960

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of CHARLES F. MacGREGOR to transfer
to THEODORE T. VIOLETTE, doing
business as TRANS HARBOR TRUCKING
CO., certain highway common
carrier rights.

Application No. 38967

O P I N I O N

Charles F. MacGregor and Theodore T. Violette have filed this application for an order authorizing the transfer of highway common carrier operative rights.

By Decision No. 52921, dated April 24, 1956, the Commission authorized Charles F. MacGregor and Theodore T. Violette to enter into a contract whereby said MacGregor leased to said Violette, for a period of one year, his highway common carrier operative rights for the transportation of certain commodities between Los Angeles and Marysville, which rights had been established by Decision No. 44490, dated June 27, 1950. The contract which the Commission authorized the parties to execute also covered Interstate Commerce Commission operative rights and granted to said Violette the option to purchase the rights for the sum of \$16,000.

It appears that said Violette now has concluded to exercise his option and to take over the operative rights at the agreed price of \$16,000. In doing so, he will receive credit for the rent he has paid under the lease arrangements and for

certain cash payments, all amounting to \$3,000, leaving a balance of \$13,000, which he has agreed to pay in semi-annual installments of \$1,000 each with interest at the rate of 4% per annum. The operative rights will be pledged by Violette to MacGregor as collateral security.

It is recited that MacGregor is unable to continue the operations because of ill health. On the other hand, it appears that Violette is experienced in the operations, that, in fact, he has been conducting them with reasonable success and that, upon the basis of his financial statements, he should be in a position to meet the obligations imposed by the purchase arrangements and to continue the operations without interruption in the service to the public. We are of the opinion, therefore, and so find that the transfer will not be adverse to the public interest and that the incurring of the long-term debt by applicant Violette is reasonably required to carry out the terms of the transaction and that an order should be entered granting the application.

In making our order herein, we will not recognize the agreed purchase price as the cost or value of the operative rights. Applicants are placed on 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

The Commission having considered the above-entitled matter and being of the opinion that a public hearing is not necessary and that the application should be granted, as herein provided; therefore,

IT IS HEREBY ORDERED as follows:

1. Charles F. MacGregor may transfer to Theodore T. Violette the certificate of public convenience and necessity granted by this Commission's Decision No. 44490, dated June 27, 1950, in accordance with the provisions of the contract dated March 28, 1957, filed in this proceeding as Exhibit A. Applicants may execute said contract and consummate the transactions referred to therein which are subject to the jurisdiction of this Commission.
2. Theodore T. Violette, in acquiring said certificate of public convenience and necessity may pledge the same as collateral security, and may incur an indebtedness of not exceeding \$13,000, said pledge and indebtedness to be in accordance with said Exhibit A.
3. Applicants, effective concurrently with the consummation of such transfer, and on not less than five days' notice to the Commission and to the public, shall supplement or reissue the tariffs on file with the Commission naming rates, rules, and regulations governing the common carrier operations here involved to show that Charles F. MacGregor has withdrawn or canceled and Theodore T. Violette, doing business as Trans Harbor Trucking Co. has adopted or established, as his own, said rates, rules and regulations.

4. The authority herein granted will become effective when Theodore T. Violette has paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.

Dated at San Francisco, California, this 14th day of MAY, 1957.

John E. Appleton
 President

Robert J. [unclear]

[unclear]

[unclear]

Commissioners

