

Decision No. 55215**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 FRED H. TUFTS, doing business as)
 KLAMATH RIVER FREIGHT LINES, to sell,)
 and YREKA WESTERN RAILROAD COMPANY,)
 a corporation, to purchase motor) Application No. 39072
 vehicle freight line between Yreka)
 Hornbrook and Klamath River points as)
 far west as Orleans Bar in Humboldt)
 County, California.)

O P I N I O N

Fred H. Tufts, doing business as Klamath River Freight Lines, has authority from this Commission to operate a motor vehicle freight line as a highway common carrier between Yreka, Hornbrook and Klamath River points as far west as Orleans Bar in Humboldt County, California.^{1/} He also possesses a contract carrier permit for the transportation of freight in this area.

By this application the Commission is requested to authorize Fred H. Tufts to sell, and Yreka Western Railroad Company, a corporation, to purchase the described highway common carrier rights, equipment, and goodwill for the sum of \$45,000, \$22,500 payable in cash, \$12,500 upon approval of the transfer by this Commission and \$10,000 on or before August 1, 1958.

Applicant Tufts states that he is presently operating with four trucks and three trailers which the purchaser proposes to acquire in the transfer.

As the reason for the proposed transfer it is alleged in the application that Fred H. Tufts intends to retire from the transportation business and desires to sell his operative rights in order to effectuate this purpose. The joint application states that petitioner Yreka Western Railroad Company possesses considerable experience

^{1/} Decision No. 41313, dated March 16, 1948, in Application No. 29047.

in the transportation business having operated as a railroad common carrier for many years. Moreover, the buyer has operated as a highway common carrier in connection with its rail transportation business since July, 1940.

The purchaser appears to be in a sound financial condition.^{2/} There is no request made to change the rates now charged by the seller.

It appears, and the Commission finds, that the proposed sale will not be 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 the value of the property herein authorized to be transferred nor authorization to capitalize the operating right in excess of the amount allowed by law.

Yreka Western Railroad Company is hereby 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. 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, the Commission being fully advised and having found that the proposed transfer is not adverse to the public interest, and being of the opinion that the money, property

^{2/} Exhibits "C" and "D" on the application.

or labor to be procured or paid for by Yreka Western Railroad Company by incurring long-term indebtedness is reasonably required for the purpose specified herein; therefore,

IT IS ORDERED:

(1) That Fred H. Tufts, doing business as Klamath River Freight Lines, may sell and transfer to Yreka Western Railroad Company, a corporation, his highway common carrier operative rights and properties and Yreka Western Railroad Company may acquire and thereafter operate the same, such sale and transfer to be made in accordance with the terms and conditions of the agreement of sale dated April 23, 1957, filed in this proceeding as Exhibit "A" and Yreka Western Railroad Company, pursuant to the terms of said agreement of sale, may incur indebtedness of \$10,000, payable on or before August 1, 1958.

(2) That within thirty days after the consummation of the transfer herein authorized, Yreka Western Railroad Company shall notify the Commission in writing of that fact. Further, said company shall file with the Commission, when executed, a true copy of any bill of sale or other instrument of transfer which may have been executed to effect the transfer authorized.

(3) That effective concurrently with the consummation of such transfer, and on not less than five days' notice to the Commission and to the public, Fred H. Tufts and Yreka Western Railroad Company 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 Fred H. Tufts has withdrawn or canceled, and Yreka Western Railroad Company has adopted or established as its own, said rates, rules and regulations.

(4) The authority herein granted shall expire if not exercised within thirty days after the effective date hereof.

(5) The authority herein granted will become effective when Yreka Western Railroad Company 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 2nd day of July, 1957.

Robert E. Mitchell
 President

Richard J. Lawrence

William J. ...

R. Hardy

E. ...
 Commissioners

