

ORIGINAL

Decision No. 66733

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of MYRON D. PETERS to transfer his partnership interest in a certain certificate of public convenience and necessity and other property to WALTER F. PETERS, and of WALTER F. PETERS to acquire such interest and such property and to issue a promissory note.

Application No. 45926
Filed November 1, 1963
and Amendment
Filed January 8, 1964

O P I N I O N

This is an application for an order of the Commission (1) authorizing Myron D. Peters to sell and transfer his interest in a highway common carrier certificate of public convenience and necessity and other property, together with prescriptive operative right as a public utility warehouseman, to Walter F. Peters; and (2) authorizing Walter F. Peters, in acquiring said interest, to assume the payment of outstanding indebtedness, to issue an installment note, and to execute two deeds of trust.

By Decision No. 60602, dated August 23, 1960, in Application No. 42165, as amended by Decision No. 65172, dated April 2, 1963, in Application No. 45173, the Commission granted to Walter F. Peters and Myron D. Peters, partners doing business as Peters Truck Lines, a certificate of public convenience and necessity authorizing them to operate as a highway common carrier of general commodities, with certain exceptions, between various

points and places in northern California. Also, the partners possess a prescriptive operative right as a public utility warehouseman in the towns of Yreka and Mt. Shasta as determined by the Commission in Decision No. 61852, dated April 18, 1961, in Case No. 6959.

The application shows that Myron D. Peters does not desire to remain in the business any longer and that he has agreed to sell and transfer his partnership interest to Walter F. Peters for a total selling price of \$50,000. Walter F. Peters will continue in the enterprise as a sole proprietor doing business as Peters Truck Lines, and he proposes to acquire the partnership interest from Myron D. Peters by payment of \$25,000 in cash and by issuance of a \$25,000 installment note for the balance of the purchase price. Said note will be payable over a period of three years in equal monthly installments of \$760.55, including interest at 6% per annum. Payment of the note will be secured by two deeds of trust.

The Commission has considered this matter and finds that: (1) the proposed sale and transfer will not be adverse to the public interest; (2) the money, property or labor to be procured or paid for by the issue of the note herein authorized is reasonably required for the purpose specified herein; and (3) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we conclude that the application should be granted. A public hearing is not necessary.

Walter F. Peters 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, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

The action taken herein shall not be construed to be a finding of the value of the operative rights and other assets to be transferred. So far as the rights are concerned, the authorization herein granted is for the transfer of only the highway common carrier certificate of public convenience and necessity and the prescriptive operative right as a public utility warehouseman now held by Walter F. Peters and Myron D. Peters as partners. The transfer of permitted operative rights must be the subject of a separate application, or applications.

O R D E R

IT IS ORDERED that:

1. On or before June 30, 1964, Myron D. Peters may sell and transfer, and Walter F. Peters may purchase and acquire the former's partnership interest in the public utility operative rights and other property referred to in this application.

2. Walter F. Peters, for the purpose of acquiring said partnership interest, may assume the payment of outstanding indebtedness and may execute two deeds of trust and issue an installment note in the principal amount of not to exceed \$25,000, such deeds of trust and note to be in the same form, or in substantially the same form, as those attached to the amendment to the application.

3. Within thirty days after the consummation of the transfer herein authorized, Walter F. Peters shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect such transfer.

4. Walter F. Peters shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the highway common carrier and public utility warehouse operations herein to show that he has adopted or established, as his own, said rates, rules and regulations. The tariff filings

shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Orders Nos. 61-A and 80-A.

5. On or before the end of the third month after the consummation of the transfer as herein authorized, Walter F. Peters shall cause to be filed with the Commission, in such form as it may prescribe, an annual report, or reports, covering the period commencing with the first day of the current year to and including the effective date of the transfer.

6. Concurrently with the effective date of tariff filings for warehouse operations required by Ordering Paragraph 4 hereof, the prescriptive operative authority set forth in Decision No. 61852, dated April 18, 1961, in Case No. 6959, is hereby revoked and in place and stead thereof a prescriptive operative right as a public utility warehouseman is hereby stated for Walter F. Peters, as more particularly set forth in Appendix A attached hereto.

7. In providing service pursuant to the warehouse operative authority set forth herein, Walter F. Peters shall comply with and observe the following service regulation:

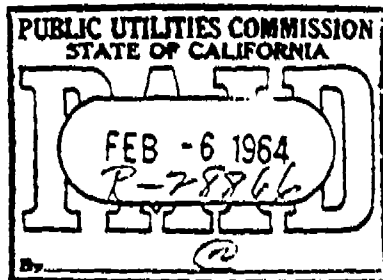
Within thirty days after the effective date hereof, he shall file a written acceptance of the operative right herein stated. By accepting such operative right, he is placed on notice that he will be required, among other things, to file annual reports of his operations. Failure to file said reports, in such form and at such time as the Commission may direct, may result in a cancellation of the operative right set forth in Appendix A hereof.

8. Walter F. Peters shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

9. This order shall become effective when Walter F. Peters has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.

Dated at San Francisco, California, this 4th day of February, 1964.

William W. Bennett
President



George H. Hoover

George H. Hoover

Fredrick B. Holshoff
Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.

APPENDIX A

WALTER F. PETERS
doing business
as
PETERS TRUCK LINES

Walter F. Peters possesses a prescriptive operative right as a public utility warehouseman for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>No. of Square Feet of Floor Space</u>
Yreka	1,280
Mt. Shasta	1,280

(The floor space shown above is exclusive of the 50,000 square feet of expansion permissible under Section 1051 of the Public Utilities Code.)

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 65733, Application No. 45926.