

Decision No. 74473**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of Johnson Truck Service, Inc., a
corporation, by A. E. MILLER,
Trustee in Bankruptcy for JOHNSON
TRUCK SERVICE, INC., to transfer,
and of Walter F. Peters, an indi-
vidual doing business as PETERS
TRUCK LINES, to acquire a certifi-
cate of public convenience and
necessity and to operate as a
highway common carrier; and
request for Tariff Publication
Authority.

Application No. 50182
Filed April 18, 1968

O P I N I O N

The application alleges that A. E. Miller is Trustee in Bankruptcy for Johnson Truck Service, Inc. (transferor). Transferor's predecessor partnership acquired transferor's present operating right pursuant to Decision No. 61589, dated February 28, 1961, in Application No. 42692. This right was transferred from the partners to transferor pursuant to Decision No. 68163, dated November 2, 1964, and amended by Decision No. 74082, dated May 7, 1968, in Application No. 46847. It authorizes the transportation of general commodities between Yreka and Hornbrook on the East and Indian Creek and Happy Camp on the West.

Transferor proposes to sell the operative right referred to above to Walter F. Peters, transferee, for \$600 in cash payable upon approval by this Commission. Transferee, who is now a highway common carrier, proposes to adopt transferor's tariffs to the extent that these are not inconsistent with transferee's presently filed rates.

The application alleges that transferee has the financial resources, experience, personnel, facilities and equipment to provide service in transferor's present territory.

The application was listed on the Commission's Daily Calendar of April 22, 1968. No objection to the granting of the application has been received.

The Commission finds that:

1. The transfer proposed in Application No. 50182 would not be adverse to the public interest.
2. Walter F. Peters has the financial resources, facilities, equipment, experience and personnel to transport general commodities in the area heretofore served by transferor.
3. Public convenience and necessity require that the certificate presently possessed by Walter F. Peters be amended as provided by the following order.
4. Increases resulting from the proposed publication of rates are justified.
5. A public hearing is not necessary.

The Commission concludes that the sought transfer should be granted.

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 over a particular route. 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 authorization herein granted shall not be construed as a finding of the value of the rights herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1968, A. E. Miller as Trustee, may sell and transfer, and Walter F. Peters, may purchase and acquire the highway common carrier certificate of public convenience and necessity referred to in the application, in accordance with the terms set forth in the application, but subject to the terms of this order.

2. 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 said transfer.

3. Walter F. Peters shall file tariffs with the Commission, naming rates and rules governing the common carrier operations involved herein to reflect the authority herein granted. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty 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 Order No. 80-A. Failure to comply with and observe the provisions of General Order No. 80-A may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the date of actual transfer, buyer shall cause to be filed with the Commission an annual report covering the operations of seller during the year 1967 to and including the date of suspension of seller's operations.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 30th day of JULY, 1968.

William A. ...
President

Fred B. Messersmy
Commissioners

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

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.