

ORIGINAL

Decision No. 36854

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
THOMAS W. GILBOY and EDWARD HUNTER,)	
a co-partnership, to buy, and G.F.D.)	
LINES, INC., a corporation, and)	Application No. 25847
ALBERT L. WEBB, an individual, to)	
sell and transfer operative rights)	
and motor trucks.)	

GWYN H. BAKER, for applicants.

PHIL JACOBSON, for G.F.D. Lines, Inc.,
applicant.

F. W. TURCOTTE, for R. M. Addcox and E. C.
Kimbrough, interested parties.

CLARK, Commissioner:

O P I N I O N

This proceeding involves a proposed plan to transfer certain equipment and operative rights which will have the over-all effect of rearranging film delivery service in the Los Angeles area. Applicants G.F.D. Lines, Inc. and Albert Webb seek authority to transfer equipment and certain of their respective certificated operations to applicants Thomas W. Gilboy and Edward Hunter, co-partners.

A public hearing was conducted at Los Angeles, December 23, 1943, at which time the matter was taken under submission and is now ready for decision.

G.F.D. Lines' Rights and Equipment
Proposed to be Transferred

The G.F.D. Lines now conducts a film delivery and allied products service between points of supply in Los Angeles and points of distribution throughout Southern California and a portion of Arizona. In this proceeding it seeks authority to sell what might be termed its local service in the metropolitan Los Angeles area, ⁽¹⁾ and retain the remainder of the business which includes operations between Los Angeles metropolitan area and the San Diego district and intermediate points, and the Los Angeles metropolitan area and points in Arizona, via Pomona, Riverside, San Bernardino, Banning, Indio and Blythe, serving many theaters both on and off the route.

The rights sought to be transferred were created by Decision No. 27254. In addition to the certificated rights it is proposed to transfer five motor trucks. The total consideration amounts to \$5,000, segregated on the following basis: equipment \$4,000, intrastate certificated rights \$250, and related transportation business \$750.

The record shows that G.F.D. Lines will be able to effect a material saving in its operating expenses as a result of reducing

(1) Granted under Decision No. 27254 (and designated in said decision as Routes Nos. 1, 4 and 5), as follows: El Sereno, Glendale, North Hollywood, West Hollywood, Beverly Hills, Westwood, Sawtelle, Santa Monica, Ocean Park, Venice, Culver City, Inglewood, Hawthorne, Hyde Park, Alhambra, South Pasadena, Pasadena, Montrose and Tujunga.

the number of miles operated with the attendant saving in manpower. The plan permits a saving of approximately ninety truck miles per day as compared to the present method of operation.

Webb's Rights and Equipment
Proposed to be Transferred

Albert Webb now conducts a film delivery service radiating out of the supply points in Los Angeles west to the beach area, between Santa Monica and Venice, and northeast to the Glendale and Pasadena area. In this proceeding authority is sought to transfer the certificated rights to the west, and under the plan Webb will continue to serve the area to the northeast. The consideration to be paid to Albert Webb by Gilboy and Hunter is \$2500, segregated as follows: one truck and the city business in Los Angeles lying west of Western Avenue, \$2350; the certificated rights granted in Decision No. 26647, consisting of that portion of the certificated operation lying west of Western Avenue in the city of Los Angeles, \$150.⁽²⁾

The record shows that if Webb is permitted to divest himself of a portion of his present operations he will be in a much better position to take care of the remainder of his business due to shortage of manpower and transportation facilities. The proposed plan will permit an operating saving of 45 truck miles per day with the attendant saving in manpower.

(2) Granted under Decision No. 26647, as follows: Venice, Ocean Park, Santa Monica, Sawtelle, Westwood, Beverly Hills, and intermediate points.

Transferees

The record shows that the Gilboy and Hunter copartnership is in a position to provide service to the theaters in the area involved with little added cost to its present operations since it is now operating in that general area in competition with both the G.F.D. Lines and the Webb interests. The proposed transfer plan involved herein will have the effect of eliminating considerable duplication and will permit of a material saving in both manpower and truck miles, which is in the public interest particularly under prevailing wartime conditions. On the other hand, the service to the theaters under the proposed plan should not be impaired; in fact, it should be improved as a number of operating consolidations can be effected which should permit of better service than is now provided as a result of an increased volume of business to the carrier in the field.

The theater interests which would be affected by the proposed transfer plan were given notice of the general program of rearrangement of service and also of the hearing before the Commission. No one appeared to protest the granting of the application. In fact, the record shows that the managers of the theaters were supporting the application.

It appears from the record that the Gilboy and Hunter copartnership is an experienced operator and is financially able to carry on the proposed increased business which it seeks to acquire from the G.F.D. Lines and Webb interests, respectively.

As indicated, Thomas W. Gilboy and Edward Hunter, a copartnership, have agreed to pay \$7,500 for the motor equipment, business, and operative rights owned by G.F.D. Lines, Inc., and

Albert L. Webb. It is of record that of this purchase price, \$6,350 represents the value of the motor equipment and the remainder, \$1,150, represents the value of the business and operative rights. If the copartnership consummates the sale agreements filed in this application, we believe that it should write off \$1,150 of the purchase price and not include it as an asset. The copartnership should file with the Commission a copy of its balance sheet as of December 31, 1943, a copy of its income statement for the year 1943, and a copy of the copartnership agreement,

Thomas F. Gilboy and Edward Hunter, a copartnership, are 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 to the number of rights which may be given.

The following form of order is recommended:

O R D E R

Application having been made in the above-entitled matter, a public hearing having been held, and the Commission being now of the opinion, and hereby finding, that public convenience and necessity so require,

IT IS ORDERED:

(1) That G. F. D. Lines, Inc. is authorized to sell and transfer and Thomas W. Gilboy and Edward Hunter, a copartnership, are authorized to acquire, the operative right described as Routes 1, 4 and 5 in Decision No. 27254, in Application No. 19534, together with five motor trucks described in the agreement of sale entered into between the parties on October 6, 1943 and which is attached to the application in the instant proceeding.

(2) That Albert Webb is authorized to sell and transfer and Thomas W. Gilboy and Edward Hunter, a copartnership, are authorized to acquire the operative right set forth in Exhibit "A," as amended, ⁽³⁾ attached to the application in the instant proceeding and covered by Decision No. 26647, together with one motor truck as referred to in this record.

(3) That upon consummation of the transfer herein authorized Thomas W. Gilboy and Edward Hunter, a copartnership, shall write off \$1,150 of the purchase price of said business and operative rights, and within sixty (60) days after the consummation of said transfer shall file with the Commission a copy of the balance sheet of the copartnership, as of December 31, 1943, a copy of the income statement of said copartnership for the year 1943, and a copy of the copartnership agreement.

(4) That applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by

(3) By the amendment offered at the hearing, Decision No. 25759 becomes Decision No. 26647 and Decision No. 26229 becomes Decision No. 27254.

filing, in triplicate, and concurrently making effective, tariffs and time tables satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and the public

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

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 8th day of February, 1944.

Richard L. Locke

Justus F. Gaumer
Francis D. Hoover
George W. Clegg
COMMISSIONERS