

ORIGINAL

Decision No. 37685

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
A. M. BOWERS to sell and LE ROY PITTMAN)
to purchase an automobile (Passenger or)
Freight Line) operated between 2nd and) Application No. 26341
National Ave., National City, and)
Paradise Valley, and between 2nd and)
National Ave. and Lincoln Acres, Calif.)

A. M. BOWERS and LE ROY PITTMAN, in propria personae
JEAN D. RATELLE, for City of National City,
Protestant
HERBERT CAMERON, for Charles M. Koors
Interested Party
A. H. PUTNAM and CHAS. E. WARREN,
Interested Parties

BY THE COMMISSION:

O P I N I O N

) Arthur M. Bowers requests authority to sell to
LeRoy Pittman his operative right for the transportation
of passengers between National City and Lincoln Acres,
San Diego County, and intermediate points, and also to sell
to said Pittman certain automotive equipment.) The latter
seeks authority to purchase said right and equipment.

The operative right proposed to be transferred
was created by the Commission's Decision No. 36375, dated
May 25, 1943, on Application No. 25488.

Public hearings was held before Examiner Chiesa at
San Diego on January 26, 1945, evidence was received, the
matter was submitted, and now is ready for decision.

The evidence discloses that because of poor health
Arthur M. Bowers is unable to continue the operation of his

passenger stage business and that by agreement with LeRoy Pittman the latter agreed to take over said business and the operative right as of January 14, 1944, for a consideration of \$1,432.08, subject to the Commission's approval. Said purchase price represents the value of equipment only, consisting of one 21-passenger Yellow Coach bus with 1940 Ford motor and one 7-passenger 1938 Cadillac-8 sedan, as no value was placed on the operative right.

Operating results for the period between May 25, 1943, and January 14, 1944 are not available; however, the record shows that for the period of January 14, 1944, to December 31, 1944, gross operating revenues and expenses were \$14,833.55 and \$9,470.52, respectively.

The financial condition of LeRoy Pittman as of February 8, 1945, was as follows: tangible assets \$3,940.08; liabilities \$655.81; net worth \$ 3,284.27.

The City of National City having received complaints from applicant's patrons charging that the service was not entirely satisfactory appeared in protest. No complainants appeared at the hearing and applicant Pittman testified that very few complaints have come to his attention although unavoidable delays occur at times.

After full consideration of this matter the Commission is of the opinion and finds that the proposed transfer is in the public interest and, therefore, the application will be granted.

The action taken herein shall not be construed to be a finding of value for any purpose.

Le Roy Pittman is hereby 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.

O R D E R

IT IS ORDERED as follows:

(1) That Arthur M. Bowers is hereby authorized to sell and transfer, on or before June 30, 1945, and Le Roy Pittman is hereby authorized to purchase and acquire, and hereafter to operate thereunder, the operative right created by Decision No. 36375, dated May 25, 1943, and the automotive equipment referred to in the foregoing opinion.

(2) That applicants herein shall comply with the rules of the Commission's General Order No. 79 and Part IV of No. 93-A by filing, in triplicate, and concurrently making effective appropriate tariffs and time tables within sixty (60) days from the effective date hereof and not less than one (1) day's notice to the Commission and the public.

(3) That within thirty (30) days after the transfer of the properties, as herein authorized, Le Roy Pittman shall file with the Railroad Commission a copy of the bill of sale executed under the authority herein granted.

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

Dated at San Francisco, California, this 27th day of February, 1945.

Harold Rudman
Justin P. Casper
Richard L. Lohse
James L. Luce
COMMISSIONERS