

Decision No. 37913

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)	
of A. W. SCHMITT to sell and GLENN)	
THOMAS to purchase an automobile)	Application No. 26622
passenger line operating between)	
Livermore, California and Arroyo)	
Sanatorium and intermediate points.))	

BY THE COMMISSION:

O P I N I O N

This is an application of A. W. Schmitt, doing business as Livermore Valley Stages, to sell and transfer, and Glenn Thomas to purchase and acquire, an operative right for the transportation of passengers, together with equipment used in such operation, between Livermore and Arroyo Sanatorium and intermediate points; the distance between the termini being approximately five miles.

The original operative right was granted by Decision No. 13039 dated January 12, 1924. Sole ownership of the right proposed to be transferred was acquired by Schmitt pursuant to Decision No. 18221 dated April 13, 1927. At that time, it included the right to transport property, but this right was subsequently abandoned by order of the Commission. (1)

The agreement of sale negotiated between the parties, and which is attached to the application, sets forth that the seller agrees to convey to the purchaser, in addition to the operative right involved, the following equipment:

(1) Decision No. 30698, dated March 14, 1938, in Application No. 21797.

- 1 Ford Bus, Engine No. R 18-39431M, valued at \$2,500.00;
- 1 Ford Bus, Engine No. R 99-35949M, valued at \$1,500.00; and
- 1 Chevrolet Bus, Engine No. T 3896715, valued at \$900.00.

The consideration is \$6,500, of which amount \$4,900 is alleged to represent the value of the equipment and \$1,600 the value of the operative right. The entire purchase price is to be paid in cash upon approval of the sale by the Commission.

A. W. Schmitt reports his passenger stage operating revenues for the past five years as follows:

1940	\$ 4,060.55
1941	5,621.56
1942	10,048.67
1943	13,894.15
1944	19,529.85

The transferee presently operates a taxi automobile service at Livermore and vicinity. His financial statement shows net assets of \$20,900.

We have given full consideration to this matter and are of the opinion, and so find, that the proposed transfer should be authorized, subject to the provisions of the following order. A public hearing does not appear necessary.

The action taken herein shall not be construed to be a finding of value for any purpose other than the proceeding herein involved.

Glenn Thomas 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:

(1) That A. W. Schmitt be, and he hereby is, authorized to sell and transfer to Glenn Thomas the operative right acquired by Decision No. 18221, as modified by Decision No. 30698, and other property referred to in the foregoing opinion, and that Glenn Thomas be, and he hereby is, authorized to purchase and acquire said right and property and thereafter to operate thereunder.

(2) That if Glenn Thomas acquires said operative right he may charge to intangible capital not more than \$150 paid for said operative right. The remainder paid for said operative right shall be by him charged to a suspense account and written off by a charge to Proprietor's Investment.

(3) That applicants shall comply with the provisions of General Order No. 79 and Part IV of General Order No. 93-A by

filing in triplicate, and concurrently making effective, appropriate 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.

Dated at Los Angeles, California, this 22nd
day of May, 1945.

Harold Culver
Justin F. Casper
Richard Jackson
James O. Dean
Lucas M. Powell
COMMISSIONERS