

Decision No. 37968

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ERNEST TYHURST to sell and F. O.)
JOHNSON to purchase an automobile)
passenger line operated between West)
Sacramento, county of Yolo, and)
Sacramento, county of Sacramento,)
California.)

ORIGINAL

Application No. 26516

BY THE COMMISSION:

O P I N I O N

A. 26516 - In the above entitled application Ernest Tyhurst requests the Commission to authorize him to sell and transfer to F. O. Johnson a passenger stage operative right between Sacramento, West Sacramento and Broderick and intermediate points, automotive equipment, tools, parts and accessories, and to assign a contract to purchase a lot on which is erected terminal facilities. F. O. Johnson requests authority to acquire such operative right, and property and to continue the passenger stage service. The operative right was acquired by Tyhurst pursuant to the authority of the Commission in Decision No. 31656, in Application No. 24438, and a certificate granted to him by Decision No. 32701, in Application No. 23183.

According to an agreement attached to the application as Exhibit "A" the purchase price for the properties involved is \$40,000. The buyer will assume outstanding obligations of the seller in the amount of \$3,576.70 due on five pieces of equipment, \$1,945 to be paid on the purchase price of a lot and garage building, and current bills amounting to \$2,148.55, which total \$7,670.25. The net amount to be paid to the seller is \$32,329.75 payable as follows: \$850 upon execution of the agreement and thereafter, following the

approval by the Railroad Commission for the proposed transfer, the sum of \$100 a month for four months, the sum of \$200 a month for the next succeeding four months, and the remainder at the rate of \$300 a month with 5 per cent interest per annum payable monthly upon the deferred balances. Applicants assign to the tangible property a value of \$19,800.

The net earnings of the line before depreciation are asserted to be as follows:

1940	\$ 4,304.51
1941	4,212.93
1942	9,492.05
1943	15,849.11
1944	10,741.21

As required by law, \$300 in filing fees have been paid for filing applications in connection with the operative right involved herein. If the buyer acquires such right he may charge to tangible plant accounts not more than \$19,800 and to intangible capital not more than \$300. The remainder of the purchase price shall be charged to a suspense account and amortized within six years after the acquisition of the operative right and properties involved.

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

F. O. Johnson 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.

The Commission has considered applicants' request and is of the opinion that this is not a matter on which a public hearing is necessary and that the application should be granted subject to the provisions of this order, therefore,

IT IS ORDERED:

(1) That Ernest Tyhurst may, after the effective date hereof and on or before October 1, 1945, sell and transfer the operative right, equipment and other properties referred to in the foregoing opinion to F. O. Johnson, and said F. O. Johnson may purchase and acquire said operative right, equipment and other properties and thereafter operate thereunder, such sale and transfer to be made pursuant to the agreement attached to the application as Exhibit "A", which agreement applicants may execute.

(2) That if F. O. Johnson acquires said operative right, equipment and other properties and pays therefor more than \$20,100 he shall charge any amount paid in excess of \$20,100 for said operative right, equipment and other properties to a suspense account and amortize the amount so charged within six years after the acquisition of said operative right, equipment and other properties by charges to proprietors' account.

(3) That applicants shall comply with the provisions of

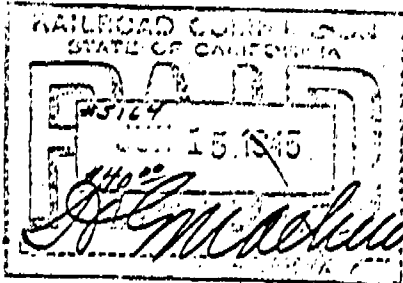
General Order No. 79 and Part IV of General Order No. 93-A by filing in triplicate and concurrently making effective appropriate tariffs and time tables within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public.

(4) That within 30 days after the transfer of the properties as herein authorized, F. O. Johnson shall file with the Commission a copy of the bill of sale executed under the authority herein granted.

(5) That the authority herein granted will become effective when F. O. Johnson has paid the fee prescribed by Section 57 of the Public Utilities Act.

(6) That within 30 days after the acquisition of the right and properties as herein authorized, F. O. Johnson shall file with the Commission a copy of the book entries by which he records the purchase of said operative right, equipment and other properties.

Dated at San Francisco, California, this 12th day of June, 1945.



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COMMISSIONERS.