

Decision No. 38511

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of LOREN W. SMITH, doing business )  
as CITRUS BELT LINES to sell, and )  
JACK SCHIPP and PAUL DILLINGHAM )  
to purchase, an automobile passenger )  
line operating between Ontario and )  
Upland, California. )  
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Application  
No. 27091

**ORIGINAL**

BY THE COMMISSION:

OPINION AND ORDER

Loren W. Smith is now engaged in the operation of an automobile passenger stage line for the transportation of passengers between Ontario and Upland, California, under a certificate of public convenience and necessity granted by Decision No. 31664, dated January 16, 1939, and a passenger stage line for the transportation of passengers between Ontario, Pomona and Chino under a certificate of public convenience and necessity granted by Decision No. 33402, dated August 13, 1940. These certificates of public convenience and necessity will hereafter be referred to as operative rights.

In this application as amended, he asks permission to sell said operative rights and the equipment mentioned in the agreement of sale on file in this application as Exhibit "A", to Jack Schipp and Paul Dillingham. The equipment consists of one 1942 29-passenger Chevrolet bus, one 1937 33-passenger Ford bus, one 1939 25-passenger Indiana bus, and one 1933 28-passenger

Ford bus. Purchasers have agreed to pay for the properties \$7,500. They allege that \$7,400 represents the value of equipment and \$100 the value of the operative rights. The \$100 consists of fees paid to the State of California.

Loren W. Smith reports that because of the condition of his health he is not justified to continue in the passenger stage business. Both of the Purchasers are employed by him and are familiar with the business.

Under the terms of the agreement, the Purchasers will pay to the Seller \$2,500 upon the approval of the agreement by the Railroad Commission, and pay the remainder in monthly installments of \$350, with interest at the rate of 6% per annum on the deferred payments. The agreement, in our opinion, constitutes an evidence of indebtedness under Section 52 of the Public Utilities Act. The title to the equipment will remain in the Seller until the full purchase price has been paid. Seller's right, title and interest in the operative rights passes to the Purchasers upon the approval of the agreement by the Railroad Commission.

We are of the opinion and so find that the sale and transfer of the operative rights and equipment described in this application are not adverse to the public interest, and that this application should be granted. A public hearing is not necessary.

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

Jack Schipp and Paul Dillingham are 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.

The Commission has considered applicants' request and is of the opinion that the money, property or labor to be procured or paid for by the execution of the agreement filed in this proceeding as Exhibit "A" is reasonably required by Jack Schipp and Paul Dillingham for the purpose herein stated, and that this application should be granted, therefore,

IT IS HEREBY ORDERED as follows:

1. Loren W. Smith may, after the effective date hereof, sell and transfer, and Jack Schipp and Paul Dillingham may acquire, the operative rights granted by said Decision Nos. 31664 and 33402, and equipment described in the agreement on file in this application as Exhibit "A", and thereafter operate under such operative rights.
2. Loren W. Smith, Jack Schipp and Paul Dillingham may, after the effective date hereof, execute an agreement of sale in, or substantially in, the same form as the agreement of

sale on file in this application as Exhibit "A", for the purpose of carrying this order into effect. The agreement may be modified to cover the operative rights granted by Decision No. 33402, dated August 13, 1940.

3. Loren W. Smith, Jack Schipp and Paul Dillingham shall comply with the rules of the Commission's General Order No. 80 and Part IV of General Order 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 on not less than five (5) days' notice to the Commission and the public.

4. The authority herein granted will become effective when Jack Schipp and Paul Dillingham, or either of them, have paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which minimum fee is Twenty-five (\$25.00) Dollars.

Dated at San Francisco, California, this 14<sup>th</sup> day of December, 1945.

Harold Anderson  
Francis C. ...  
...  
Harold P. Huls  
Commissioners

