

Decision No. 39065

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

MARTINEZ BUS LINES, INC.,

for authority (1) to issue stock and
(2) to issue note and mortgage.

Application
No. 27514

In the Matter of the Application of

J. R. VAN ARSDALE AND
MARTINEZ BUS LINES, INC.,

for an order authorizing Applicant
J. R. Van Arsdale to sell and trans-
fer, and authorizing Applicant Martinez
Bus Lines, Inc. to purchase and acquire,
certain operating rights and equipment.

Application
No. 27515

O P I N I O N

In Application No. 27514 the Railroad Commission is asked to make an order authorizing Martinez Bus Lines, Inc., to issue \$25,000 of common stock and a promissory note for \$25,000 and to execute a mortgage of chattels.

In Application No. 27515 the Commission is asked to make an order authorizing J. R. Van Arsdale to sell and transfer certain operative rights and properties to Martinez Bus Lines, Inc.

The two applications were consolidated for hearing along with Application No. 26270 wherein the Commission is asked to make an order authorizing Edward A. Miller to transfer operative

rights and properties to J. R. Van Arsdale. A separate decision will be entered in Application No. 26270.

The record shows that J. R. Van Arsdale, doing business under the firm name and style of Martinez Bus Lines, is engaged in the business of operating motor vehicles for the transportation of passengers between certain points in Contra Costa County, as hereinafter set forth, and of operating school buses in Martinez, Rodeo, Selby, Vine Hill and Crockett. (1) It is reported that operating as an individual he lacks the organization and financial resources necessary for the improvement of the service and the purchase of additional equipment and that accordingly he has entered into an agreement with Richard K. Lewis, which agreement has been assigned by said Lewis to Martinez Bus Lines, Inc., to sell for \$45,000, his business, property and assets, including the name, good-will, twelve units of equipment, together with tires and tools, school contracts and his certificates of public convenience and necessity, all as set forth in the agreement, dated April 7, 1946, filed as Exhibit "A" in Application No. 27515.

The certificates of public convenience and necessity are those authorized to be transferred to J. R. Van Arsdale by Decision No. 36881, dated February 15, 1944, in Application No. 25845, and by the decision entered as of this date in Applica-

(1) J. R. Van Arsdale reports operating revenues of \$60,342.09 for the year 1945 and of \$20,949.55 for the first three months of 1946.

tion No. 26270. Under said Decision No. 36881 J. R. Van Arsdale acquired operative rights for the transportation of passengers, baggage and express between Martinez, Concord and Avon and intermediate points, and between Martinez, Benicia, Benicia Arsenal and Benicia Arsenal barracks. By said decision he was authorized to suspend, until August 1, 1944, his operations between the Martinez ferry slip, Benicia, Benicia Arsenal and Benicia Arsenal barracks and intermediate points. He now operates between Martinez and the Martinez ferry slip.

In the decision in Application No. 26270, J. R. Van Arsdale is authorized to acquire the operative rights for the transportation of passengers between Martinez and certain inter-urban sections adjacent thereto known as the Alhambra Valley, Mountain View, Victor Village and Fairview sections, and between Martinez and Avon.

The physical properties to be transferred consist of twelve buses having a reported present value of \$42,400, new, unmounted bus tires of the value of approximately \$2,000.00 and various tools and machinery of a value of approximately \$1,500.00, the three items aggregating \$45,900 as set forth in some detail in Exhibit "C" in Application No. 27515.

To finance the purchase price and to provide funds for other purposes, Martinez Bus Lines, Inc., proposes to issue and sell, at par for cash, \$25,000 of its common capital stock and to borrow from the Walnut Creek Branch of the Bank of America,

National Trust & Savings Association, the further sum of \$25,000 to be represented by a note payable in monthly installments of \$1,000, with interest on deferred balances at the rate of 5 per cent per annum, secured by a mortgage of chattels covering the twelve buses. It proposes to use \$45,000 of the proceeds to pay the purchase price of the Van Arsdale properties and to use the remaining \$5,000 to finance the cost, reported at \$3,000, of certain real property in Martinez to be used as a terminal, to pay organization expenses and to provide working capital.

Upon acquiring Van Arsdale's rights and properties the corporation proposes to adopt and apply the rates, rules, fares and regulations contained in the applicable tariffs on file with the Commission. The testimony shows that it intends to acquire from four to six additional buses and thereafter, as rapidly as possible, to replace the entire fleet.

As to the suspended operations between Martinez ferry slip and Benicia Arsenal, it appears that through inadvertence Van Arsdale did not apply for an extension of the suspension date. The testimony shows that such service now is being given by the United States Army and that there is no public necessity for service by applicants. It is the desire of Martinez Bus Lines, Inc., to resume the service when it is relinquished by the Army and accordingly it requests the Commission not to revoke the operative rights.

The Commission has given consideration to these applications and believes they should be granted as provided in the order herein. Upon acquiring the Van Arsdale rights and properties Martinez Bus Lines, Inc., will be authorized, as hereinafter set forth, to suspend the Benicia operations until December 31, 1946. If by that time the Army has not relinquished the service, the company should apply for an extension of the suspension period.

The action taken herein shall not be construed to be a finding of value of the properties herein authorized to be transferred. Martinez Bus Lines, Inc., 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.

ORDER

J. R. Van Arsdale and Martinez Bus Lines, Inc., having applied to the Railroad Commission for orders authorizing the transfer of operative rights and properties, the issue of stock and a note and the execution of a mortgage of chattels,

a public hearing having been held and the Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of the stock and note is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. J. R. Van Arsdale, after the effective date hereof and on or before August 31, 1946, may sell and transfer to Martinez Bus Lines, Inc., the certificates of public convenience and necessity acquired by him pursuant to authority granted by Decision No. 36881, dated February 15, 1944, in Application No. 25845, and by the decision, entered concurrently herewith, in Application No. 26270, and the physical and other properties referred to in these proceedings, such sale and transfer to be in accordance with the terms of the agreement of sale filed as Exhibit "A" in Application No. 27515.
2. Martinez Bus Lines, Inc., after the effective date and on or before August 31, 1946, may execute a mortgage of chattels in, or substantially in, the same form as that filed as Exhibit "D" in Application No. 27514.
3. Martinez Bus Lines, Inc., after the effective date hereof and on or before August 31, 1946, may issue and sell at par for cash \$25,000 of its common stock and may issue a note in the principal amount of \$25,000 payable in monthly installments of \$1,000 with interest on deferred balances at the rate

of 5 percent per annum for the purpose of financing the purchase price of the properties herein authorized to be transferred, of acquiring a terminal site in Martinez, of paying organization and incorporation expenses and of providing working capital.

4. Martinez Bus Lines, Inc., may suspend until December 31, 1946 the transportation of passengers between the Martinez ferry slip, Benicia, Benicia Arsenal, Benicia Arsenal barracks and intermediate points.

5. Applicants shall comply with the provisions of General Orders No. 79 and 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 One (1) day's notice to the Commission and to the public.

6. Martinez Bus Lines, Inc., shall file with the Commission a copy of the journal entries by which it records on its books the issue of the stock and note herein authorized and the purchase of the rights and properties of J. R. Van Arsdale and shall file a report, or reports, of the issue of the stock and note and the disposition of the proceeds, as required by the Commission's General Order No. 24-A, which order insofar as applicable, is made a part of this order.

7. The authority herein granted will become effective when Martinez Bus Lines, Inc., has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars.

Dated at San Francisco, California, this 11th day of June, 1946.

L. Harold Anderson
Justus F. Coe
Scott Lawrence
Harold P. Kula
Commissioners

