

Decision No. 39409

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of FONTANA BUS LINE, a co-partnership,
to Dissolve said co-partnership, and
for Sale of Partnership Interest to
Remaining Partner.

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Application
No. 27714

ORIGINAL

O P I N I O N

This application shows that A. C. Hauer and Frank J. Barko are co-partners engaged, under the firm name and style of Fontana Bus Line, in operating motor vehicles for the transportation of passengers in San Bernardino County. By Decision No. 38302, dated October 16, 1945, in Application No. 26804, they were granted a certificate of public convenience and necessity to establish service for the transportation of persons between the Kaiser Company plant, located near Fontana, and Colton and intermediate points, including the towns of Fontana and Bloomington. By Decision No. 38805, dated April 2, 1946, in Application No. 27259, they were granted a certificate of public convenience and necessity to establish service for the transportation of persons between South Fontana and the intersection of Valley Boulevard and Alder Street (approximately one mile west of Bloomington) in the County of San Bernardino, and intermediate points, as an extension and enlargement of the operative rights granted by Decision No. 38302.

In 1945 the co-partnership reported total revenues of \$31,584.03 and expenses of \$26,566.69, leaving a profit of \$5,017.34. The financial statement attached to the present appli-

cation shows the co-partnership's assets and liabilities, as of May 31, 1946, as follows:

Assets

Cash on hand and in bank	\$ 912.15
Tools	662.89
Buses (cost)	18,822.00
Equipment and machinery	577.74
Leasehold improvements	144.00
Prepaid insurance	354.55
Deposits	<u>100.00</u>
Total	<u>\$21,573.33</u>

Liabilities

Lease deposits	\$ 30.00
Notes and contracts payable	15,058.62
Accruals	307.61
Reserve for depreciation	111.76
Net worth	<u>6,065.34</u>
Total	<u>\$21,573.33</u>

It appears that applicants now desire to dissolve the co-partnership and to that end have entered into an agreement, dated June 18, 1946, a copy of which is filed in this proceeding as Exhibit "A", whereby A. C. Hauer has agreed to sell all his right, title and interest in the co-partnership assets to Frank J. Barko, and said Barko has agreed to assume all the liabilities of the co-partnership and to pay to said Hauer the sum of \$6,500 as follows: \$2,000 in cash and the balance at the rate of \$100 per month with interest at the rate of 6% included in said payments, said balance to be represented by a note and a deed of trust. The deed of trust, we are advised, covers the home of applicant Barko and does not involve any of the equipment used in the passenger stage operations.

The liabilities to be assumed by applicant Barko include a bank obligation in the amount of \$14,244.88. It appears to be his intention and desire to have the amount represented by

a note payable in eleven successive monthly installments of \$500 each and one payment of \$8,744.88, said note to be secured by a mortgage of chattels covering six units of automotive equipment. Copies of the mortgage of chattels and of the note were filed with the Commission in this proceeding on September 7, 1946.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary and that the requests of applicants should be granted, as herein provided. In making the order, the Commission is not making a finding of the value of the rights and properties herein authorized to be transferred. Frank J. Barko 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 having considered the application of A. C. Hauer and Frank J. Barko and being of the opinion that said application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the notes referred to herein 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,

IT IS HEREBY ORDERED as follows:

1. A. C. Hauer, after the effective date hereof and on or before December 31, 1946, may transfer to Frank J. Barko all his right, title and interest in and to the properties of Fontana Bus Line referred to herein, including the certificates of public convenience and necessity granted by the Commission by Decisions No. 38302 and No. 38805, said transfer to be made in accordance with the terms of the agreement, dated June 18, 1946, filed in this proceeding as Exhibit "A".

2. Frank J. Barko, in consideration for said transfer, after the effective date hereof and on or before December 31, 1946, may issue a note in the principal amount of \$4,500 payable in monthly installments of \$100 each with interest at the rate of 6% per annum, and may assume the payment of the outstanding indebtedness of the partnership referred to in the foregoing opinion.

3. Frank J. Barko, after the effective date hereof and on or before December 31, 1946, may issue a note in the principal amount of not exceeding \$14,244.88 to represent, in part, the indebtedness so assumed, and may execute a mortgage of chattels to secure the payment of the note, said note and said mortgage of chattels to be in the form of the note and mortgage of chattels filed in this proceeding on September 7, 1946.

4. 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 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.

5. Frank J. Barko shall file a report of the issue of the notes as required by the Commission's General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

6. The authority herein granted will become effective when Frank J. Barko has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars.

Dated at San Francisco, California, this 17th day of September, 1946.

Harold G. Kule

Francis J. Lawrence

W. J. Lawrence

A. J. Anderson

Commissioners

\$ 25.00

