

Decision No. 39569

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ALAN G. BYBEE and ALMA L. BYBEE to)
sell and A. E. RYAN to purchase a)
passenger stage service between)
Brisbane and San Francisco-San Mateo)
County Line, (California,) and con-)
solidate same with existing service)
of South San Francisco Transit Co.)
under certificate of public con-)
venience and necessity.)

ORIGINAL

Application No. 27808

O P I N I O N

In this proceeding, Alan G. Bybee and Alma L. Bybee, doing business as Brisbane Bus Line propose to sell and A. E. Ryan, to purchase equipment and an operative right for the transportation of passengers between Brisbane and a point where Bayshore Boulevard intersects the San Francisco-San Mateo County line and intermediate points.

Applicant Ryan also requests the Commission to issue to him a certificate of public convenience and necessity for automotive service which he is presently providing for the transportation of passengers over various routes which are wholly within the corporate limits of the City of South San Francisco. He asks that such certificate be granted as an extension of and consolidated with the operative right he seeks authority to acquire from Bybee and Bybee. The application states that Ryan has been conducting service in South San Francisco continuously since 1938, which has heretofore not been within the purview of the Public Utilities Act, but by reason of applicant Ryan's proposal to acquire the passenger stage operations of Bybee and Bybee, certification of applicant Ryan's South San Francisco operation is now necessary.

The operative right proposed to be transferred was created by Decision No. 27470, dated October 29, 1934, and was acquired by

applicants Bybee and Bybee under authority of the Commission's Decision No. 32229, dated August 8, 1939. In addition to the operative right, it is proposed to transfer two units of passenger stage equipment valued at \$3,500 and one Chevrolet taxi cab, valued at \$400. The total cash consideration is shown to be \$4,000, of which \$100 represents the value of the operative right. Bybee and Bybee report the following revenues and expenses of the operation for the period January 1941, to end, including December 1945:

	<u>Operating Revenue</u>	<u>Operating Expense</u>	<u>Net Operating Revenue</u>
1941	\$ 5,083.10	\$ 3,920.54	\$ 1,162.56
1942	5,917.90	5,561.17	356.73
1943	2,460.40	7,927.46	532.94
1944	10,354.35	9,599.35	755.00
1945	7,775.70	7,250.82	524.88

They consider it advisable to dispose of their passenger stage business as they are unable profitably to continue its operation. The present fare charged would be maintained by the transferee.

According to the application, applicant Ryan uses six passenger stage units varying in seating capacity from 27 to 46 passengers in conducting his operation in South San Francisco. (1)

(1) A copy of the application was forwarded to the City Attorney of the City of South San Francisco, with a request for an expression of the attitude of the City authorities in connection therewith. The City Clerk had advised the Commission, by letter, that on October 7, 1946 the City Council voted in favor of the transaction, and that applicant Ryan has rendered satisfactory his service in that city for a number of years.

His financial statement, which forms a part of Exhibit "C" attached to the application shows that he has a net worth in excess of \$30,000. Applicant Ryan states that it is his opinion that he can profitably operate the service he proposes to acquire from applicants Bybee and (2) Bybee.

After full consideration it is our opinion that no public hearing is necessary in this proceeding and that the application should be granted. However, in granting the certificate no consolidation can be authorized or effected as the two operations are physically separate and distinct.

A. E. Ryan 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

An application therefor having been made, and good cause appearing,

IT IS ORDERED AS FOLLOWS:

(1) That Alan G. Bybee and Alma L. Bybee may, after the

(2) The Commission is informed that applicant Ryan maintains a local one-way fare in South San Francisco of 10¢ for adults and 5¢ for children between the ages of 5 years and 12 years with free transfer privileges.

effective date hereof and on or before December 1, 1946, sell and transfer to A. E. Ryan, and the latter may purchase and acquire the equipment referred to in the agreement of purchase attached to the application as Exhibit "A", and the operative right referred to in the foregoing opinion and thereafter operate thereunder; such transfer to be made pursuant to the terms and conditions of said agreement:

(2) That a certificate of public convenience and necessity is hereby granted to A. E. Ryan authorizing operations as a passenger stage corporation, as defined in Section 23 of the Public Utilities Act, for the transportation of passengers between points within the city of South San Francisco.

(3) That applicants Bybee and Bybee and A. E. Ryan 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 A. E. Ryan, in providing service pursuant to the certificate herein granted shall comply with and observe the following service regulations:-

- a. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.
- b. Within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public, applicant shall establish the service herein authorized and comply with the provisions of General Order No. 79 by filing, in triplicate, and concurrently making effective appropriate tariffs and time tables.
- c. Subject to the authority of this Commission to change or modify them by further order, applicant shall conduct operations pursuant to the certificate herein granted over and along the following routes:

- (1) Beginning at South San Francisco Junction (the junction of Market Street railway tracks and Grand Avenue, east of Mission Road), thence along Grand Avenue and Swift Avenue in the City of South San Francisco to entrance gate of the W. P. Fuller Co. plant and return along the same route.
- (2) Beginning at the intersection of Grand Avenue and Orange Avenue, thence along Orange Avenue to North Fairway Drive, Fairway Drive, Southwood Drive and Orange Avenue to Highway U. S. 101 (El Camino Real), southeasterly on Highway U. S. 101 to Brentwood Drive, Rockwood Drive, Manor Drive, Springwood Way, Rockwood Drive and Brentwood Drive to Highway U. S. 101 and return via Highway U. S. 101 to Orange Avenue, northeasterly on Orange Avenue to Myrtle Avenue, thence via Myrtle Avenue, Cherry Avenue, Mayfair Avenue and Myrtle Avenue to Orange Avenue, northeasterly on Orange Avenue to Grand Avenue.
- (3) Beginning at Grand Avenue and Linden Avenue, southwesterly on Linden Avenue to Victory Avenue, thence following Victory Avenue through the Lindenville Housing Project and return to Linden Avenue, thence northeasterly on Linden Avenue to Grand Avenue.
- (4) Beginning at Linden Avenue and Grand Avenue, thence northerly on Linden Avenue to Hillside Boulevard, thence along Hillside Boulevard to its intersection with Randolph Street, thence via Randolph Street and Randolph Avenue to Bayshore Highway, southerly along Bayshore Highway to Grand Avenue, thence via Grand Avenue to Linden Avenue.
- (5) Beginning at Grand Avenue and Linden Avenue, thence via Grand Avenue and Swift Avenue to Industrial Way thence via Industrial Way and Butler Road to the entrance gate of Western Pipe and Steel Co. plant and return via Butler Road, Bayshore Highway and Grand Avenue to Linden Avenue.

Applicant may turn his motor vehicles at termini or intermediate points either in the intersection of the street, or by operating around a block, in either direction, contiguous to such intersection.

The effective date of this order shall be 20 days from the date hereof.

Dated at San Francisco, California, this 29th day of October, 1946.

Lawrence K. Kula
Justice J. G. G. G.
Thomas W. G.
Robert T. G.

COMMISSIONERS