

ORIGINAL

Decision No. 40003

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
Milo Passalacqua to sell and Leo)	
Passalacqua and Laurence Gando to)	
purchase an automotive passenger)	Application
line operated between Benicia and)	No. 28133
Vallejo, California.)	

OPINION AND ORDER

This is an application for an order authorizing Milo Passalacqua to sell to Leo Passalacqua and Laurence Gando an interest in the operative rights and equipment used in the business of transporting passengers between Benicia and Vallejo. The operative rights involved were created by reason of operations conducted prior to and continuously since July 25, 1917.

The application shows that under an agreement dated December 1, 1944, as modified by an agreement dated September 30, 1946, Leo Passalacqua and Laurence Gando each have agreed to purchase an undivided one-third interest in the business and properties for the sum of \$25,000 each and, among other things, in satisfaction of said amounts, to pay to Milo Passalacqua and Louise Passalacqua, his wife, forty per cent of their net proceeds from distribution of earnings beginning with the calendar year 1946 and until the obligation of each of them has been discharged, under the terms and conditions set forth in said agreements. It is reported that no change in the operation of the business is contemplated.

(1) The annual reports to the Commission of these operations show operating revenues of \$68,884 in 1943; \$68,969 in 1944 and \$91,757 in 1945, and net operating revenues, before provision for federal income taxes, of \$47,336 in 1943; \$58,615 in 1944 and \$52,497 in 1945.

The Commission has considered this matter and is of the opinion that the money, property or labor to be procured or paid for through the consummation of said agreements is reasonably required for the purposes specified herein; that a public hearing is not necessary, and that the application should be granted, as herein provided. At this time, applicants 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.

Therefore, good cause appearing,

IT IS HEREBY ORDERED as follows:

1. Milo Passalacqua may sell and transfer to Leo Passalacqua and Laurence Gando an undivided one-third interest each in the operative rights and equipment used by him in the transportation of passengers between Benicia and Vallejo under and pursuant to the terms and conditions of the agreements filed in this proceeding and referred to herein.

2. 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.

3. The authority herein granted will become effective

when Leo Pascualacqua and Laurence Gando have paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is Fifty (\$50.00) Dollars.

4. The authority herein granted is not to be construed to be a finding of value of the properties herein authorized to be transferred.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 25th day of February, 1947.

Harold P. Kule
Justice J. C. Rogers
Don H. Howell
R. F. Johnson
Wm. H. Patten
 COMMISSIONERS

