

ORIGINAL

Decision No. 40250

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 Glen Scholl to sell a one-half interest
 in and Steve Ryan to purchase a one-half
 interest in an automotive Freight Line
 operated between Merced and Midpines,
 California.

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) Application
 : No. 28286
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OPINION AND ORDER

The Commission by Decision No. 31418, dated November 5, 1938, in Application No. 22092 granted, subject to the conditions set forth therein, to Glen Scholl, operating under the name and style of Mariposa Express, a certificate of public convenience and necessity to conduct an automotive service as a highway common carrier as defined in Section 2-3/4 of the Public Utilities Act between Merced and Midpines and all intermediate points over and along the following route: "Between Merced and Midpines over State Route No. 140 via Mariposa and between Midpines and Merced over State Route No. 140 to Mariposa thence to Mormon Bar and thence over County Road via Bridgeport, Stonehouse and Cathlamet Post Office to its intersection with State Route No. 140, and thence over State Route No. 140 to Merced".

Glen Scholl reports for the past three years operating revenues and other income and net income as follows:

<u>Year</u>	<u>Total Income</u>	<u>Net Income</u>
1944	\$16,572.17	\$5,938.63
1945	19,863.03	5,454.23
1946	39,840.86	7,936.03

He reports the investment in equipment at \$16,524.40.

Applicant Glen Scholl asks permission to sell a one-half interest in said operative right and in his automotive equipment and transportation business conducted under the name of the Mariposa Express to Steve Ryan for \$10,000, payable in monthly installments of \$250 each.

Glen Scholl and Steve Ryan have agreed to associate themselves together as partners for the purpose of carrying on the transportation business and such other business as they may from time to time undertake. The partnership business will be conducted under the name of the Mariposa Express. A copy of the partnership agreement is on file in this application. It covers the purchase of the one-half interest and specifies the terms and conditions under which the partnership business will be conducted. In view of the fact that the payment of the \$10,000 extends over a period of more than twelve months, it follows that the agreement constitutes an evidence of indebtedness coming within the provisions of Section 52 of the Public Utilities Act, and that its execution should be authorized by the Commission.

Applicants allege that \$5,000 of the consideration to be paid for a one-half interest in the properties represents the value of equipment, and \$5,000 the value of operative rights.

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred, or as granting any new operative right over said route.

Glen Scholl and Steve Ryan 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 believes that this is not a matter on which a hearing is necessary, that the money, property or labor to be procured or paid for by the execution of said partnership agreement is reasonably required by applicants for the purpose herein stated, and that this application should be granted, therefore,

IT IS HEREBY ORDERED as follows:

1. Glen Scholl may, after the effective date hereof and on or before June 30, 1947, sell and transfer to Steve Ryan and the latter may purchase and acquire, a one-half interest in the operative right, equipment and business referred to herein and more particularly described in this application, said transfer to be made pursuant to the terms and conditions of the partnership agreement on file in this application, which agreement applicants are hereby authorized to execute.

2. Glen Scholl and Steve Ryan shall comply with the provisions of 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 one (1) day's notice to the Commission and to the public.

3. The authority herein granted will become effective when Glen Scholl and Steve Ryan, 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 6th day of May, 1947.

Harold P. Kula

Joseph P. Howell

R. V. ...

Henrietta Potter
Commissioners

