

Decision No. 40634

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MONTICELLO UTILITY CORPORATION, a)
California corporation, to sell and)
transfer and E. F. GARDNER, an indi-)
vidual, to purchase the passenger)
stage service of said corporation.)
-----)

Application
No. 28644

ORIGINAL

OPINION AND ORDER

This is an application for an order of the Public Utilities Commission authorizing Monticello Utility Corporation to transfer its operative rights and properties to E. F. Gardner. The operative rights involved were acquired by said corporation pursuant to authorization granted by Decision No. 18651, dated July 21, 1927, by Decision No. 29139, dated September 28, 1936, and by Decision No. 33144, dated May 28, 1940. Reference is made to said decisions for the extent of said operative rights. The operative properties include seven units of automotive equipment.

The corporation has outstanding 153 shares of stock of the aggregate par value of \$15,300 all of which is held by E. F. Gardner. It has been concluded that the operations could be conducted more economically by an individual and consequently it has been decided to dissolve the corporation and to transfer all its assets and liabilities to the sole stockholder. E. F. Gardner has agreed to pay for the properties a sum equal to their net book value. He will assume all of the company's liabilities.

It does not appear that there will be any change in the operations as a result of the transfer. In making this order, however, we wish to place E. F. Gardner 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 action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary and that the application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. Monticello Utility Corporation, after the effective date hereof and on or before December 31, 1947, may transfer to E. F. Gardner the operative rights, business and properties referred to herein, and E. F. Gardner may acquire the same, assume the liabilities of Monticello Utility Corporation, and thereafter conduct the operations referred to herein, such transfer to be in accordance with the agreement of sale, dated July 31, 1947, filed in this proceeding as Exhibit "A".

2. Applicants shall comply with the provisions of General Orders No. 79 and 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 twenty (20) days from the date hereof.

Dated at San Francisco, California, this 26th day of August, 1947.

Harold P. Kille
Justice J. Cassen
Irish H. ...
P. J. ...
Kenneth ...
Commissioners