

ORIGINAL

Decision No. 40708

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of JAMES B. ROCKWELL and H. S. SIMS)
to sell and LYNN H. BERRY and LEE)
S. BOGUE to purchase an automotive)
U. S. mail, freight and passenger)
line operated between Etna and)
Somes Bar, California.)

Application No. 28695

OPINION AND ORDER

The above-entitled application shows that James B. Rockwell and H. S. Sims are at the present time engaged in the operation of a highway common carrier and passenger stage service between Etna and Somes Bar and intermediate points under operative rights granted by Decision No. 40315, dated May 27, 1947, in Application No. 28241, and that they now desire to transfer said operative rights to Lynn H. Berry and Lee S. Bogue.

The application states that the consideration to be paid for the operative rights is \$50; that no equipment is involved in the transfer and that the buyers have sufficient equipment to continue the operation. The application indicates that Rockwell and Sims have relinquished their star route mail contract between the points involved herein which is now held by Berry and Bogue and that there would be no change in the conduct of the transportation business.

Applicants Berry and Bogue 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 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 ORDERED:

(1) That James B. Rockwell and H. S. Sims, after the effective date hereof and on or before December 1, 1947, may assign and transfer the operative rights referred to herein, to Lynn H. Berry and Lee S. Bogue, who may acquire said operative rights and thereafter operate thereunder.

(2) That applicants shall comply with the provisions of General Orders Nos. 79 and 80 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

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and the public.

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

Dated at San Francisco, California, this 16th day of September, 1947.

Harold P. Kula

Justus J. Quince

Edw. H. Kaechele

A. J. Johnson

COMMISSIONERS