

ORIGINALDecision No. 41796

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 BARBARA R. WALTHERS and ALFRED W.)
 BELLOWS, doing business as B. & W.)
 FILM DELIVERY, to sell, and C. O.)
 BLISS, doing business as BLISS FILM)
 DELIVERY, to purchase, a highway)
 common carrier operating right for)
 the transportation of motion picture)
 film and accessories.)

Application No. 29275

O P I N I O N

By Decision No. 39006, on Application No. 27268, Barbara R. Walthers and Alfred W. Bellows, copartners, were granted an in lieu certificate of public convenience and necessity, authorizing the establishment and operation of a service as a highway common carrier, for the transportation of motion picture films, accessories, supplies, advertising matter, electric lighting effects (including carbons, bulbs, and globes), projection machinery and parts, and tickets, between Los Angeles and Redlands, and intermediate points, along routes as described in said decision and within three miles laterally on either side of portions of said routes. Generally, the routes are:

(1) Along U.S. Highway 66 via Glendora and San Bernardino, with lateral rights between Sierra Madre and San Bernardino;

(2) Along U.S. Highways 60 and 99 and State Highway 18, via Covina, Pomona, Riverside, and Colton, with lateral rights between Monterey Park and Pomona; and

(3) Along Valley and Pomona Boulevards, between El Monte and Pomona.

Applicants Barbara R. Walthers and Alfred W. Bellows (hereinafter referred to as sellers) propose to sell to C. O. Bliss (hereinafter referred to as purchaser) the portion of their operating right lying westerly of, and including the cities of Glendora and Covina and the towns of Charter Oak, West Covina, and Bassett, as more specifically set forth in the footnote. (1) Sellers will continue to serve the remainder of the certificated area.

C. O. Bliss, doing business as Bliss Film Delivery, is now engaged as a contract carrier in the transportation of motion picture films and accessories, substantially in the same manner as the sellers. He owns and operates two GMC panel trucks serving a chain of theaters located along the routes and in the areas served by that portion of sellers' operative right proposed to be transferred. It is alleged that the acquisition of such operating right by the purchaser would enable him to conduct a more efficient

(1) The right proposed to be transferred is described by applicants as follows:

1. Between Los Angeles and Glendora over and along the route specified as Route 1 in the service regulations contained in said Decision No. 39006, serving all intermediate points on said route and within three miles laterally on either side of Foothill Boulevard and U.S. Highway 66 between Sierra Madre and Glendora; and
2. Between Los Angeles and Covina over and along the route specified as Route 2 in the service regulations contained in said Decision No. 39006 from Los Angeles to the intersection of U.S. Highway 99 with Citrus Street, directly south of Covina, thence north on Citrus Street to Covina, serving all intermediate points on said route and all points within three miles laterally on either side of U.S. Highway 99 between Monterey Park and said intersection of U.S. Highway 99 with Citrus Street, and within three miles of said Citrus Street between U.S. Highway 99 and Covina.

operation within such area and would eliminate, to some extent, a duplication of services now being performed by the sellers and purchaser.

As justification for said transfer and division of operating right, applicants stated that,

"The principal routes over which service is authorized under the existing certificate held by sellers are the foothill route along U.S. Highway 66 through Arcadia, Monrovia, Glendora and thence to San Bernardino and Redlands, and the Valley route along U.S. Highway 99 to Ontario and thence along U.S. Highway 60 to Riverside and thence to Colton and Redlands. An additional route via Valley Boulevard from El Monte to Pomona is included, and also a lateral route running south from U.S. Highway 99 to the California Institute for Men southwest of Ontario. These routes involve a distance between Los Angeles and Redlands of in excess of seventy miles and along each of said routes theaters in a great number of communities are served. By reason of the distance involved, and the number of communities served, it is impracticable for one unit of equipment to make deliveries and pickups in such service at all points on a single trip from Los Angeles (where the film shipments originate), to Redlands and return. The most practical operation of such service is to divide the runs in such manner that the communities closer to Los Angeles may be served by one vehicle and the more distant communities by another vehicle. For such purpose, the division of the operating rights, as herein proposed, is practical, and natural from a geographical standpoint. The portion of the rights proposed to be transferred covers the more populated area immediately adjacent to Los Angeles, whereas, the rights proposed to be retained cover the valley areas lying beyond the San Jose hills. The division of such rights as herein proposed would not impair the service rendered to the more distant communities and would not necessitate any uneconomical or duplicating operations. Purchaser is now engaged as a contract carrier in the transportation of the same commodities for a chain of theaters located along the routes and within the areas served by the portion of sellers' operating rights proposed to be transferred. The acquisition of such operating rights by the purchaser would enable him to conduct a more efficient operation within such area and would eliminate, to some extent, a duplication of operations now existing between sellers and purchaser in such area."

The consideration to be paid for the operating rights herein proposed to be transferred is \$2,000 cash, payable upon transfer, all of which represents the value of the operating rights. No

other property is involved. As it does not appear that any part of the purchase price is chargeable to intangible or tangible property accounts, it should be written off within two years after the effective date of our order. We are not making a finding of the value of the operative right and do not recognize the purchase price, except filing fees paid to the State, as a capital charge or the amortization charges as an operating expense for the purpose of fixing rates or for any other purpose.

The financial condition of the sellers, as of March 31, 1948, was as follows:

Tangible Assets	\$5,867.41
Intangible Assets (Good Will)	<u>2,981.67</u>
Total Assets	\$8,849.08
Liabilities	<u>160.71</u>
Net Worth	\$8,688.37

Revenues and expenses for the years 1946 and 1947 and the first quarter of 1948 are as follows:

	<u>1946</u>	<u>1947</u>	<u>1948</u> <u>1st Quarter</u>
Operating Revenues	\$24,344.11	\$28,029.57(b)	\$6,629.60
Operating Expenses	<u>10,541.73</u>	<u>9,903.13</u>	<u>2,458.50</u>
Net Operating Revenues(a)	\$13,802.38	\$18,126.44	\$4,171.10

(a) After taxes

(b) Includes miscellaneous credits of \$769.79

A financial statement as of March 29, 1948, filed by C. O. Bliss, shows tangible assets of \$20,700 and liabilities of \$200.

Purchaser estimates annual revenues and expenses of \$7,717 and \$1,815, respectively, or a net profit of \$5,902 before depreciation and taxes. The sellers' estimates of revenues and expenses, for 1949, on that portion of the business conducted along the routes proposed to be transferred are \$2,562.56 and \$2,722.45, respectively; and \$640.06 and \$787.20, respectively, for the first

quarter of 1948. It is apparent that each of the applicants would benefit from the proposed sale. No reduction in service is contemplated.

Ordinarily the Commission does not favor the splitting or division of an operative right. However, the circumstances in this case appear to justify an exception to our declared policy.

Having fully considered this matter, we are of the opinion, and find, that the proposed transfer is in the public interest. The application will be granted. A public hearing is not necessary.

The purchaser, C. O. Bliss, 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.

ORDER

Application having been filed in the above-entitled proceeding, the Commission being fully advised in the premises, and good cause appearing,

IT IS ORDERED:

(1) That after the effective date hereof and on or before August 31, 1948, Barbara R. Walthers and Alfred W. Bollows may

sell and transfer to C. O. Bliss, and the latter may purchase and acquire from the former, the highway common carrier operative right described in the above opinion, being a portion of the operative right heretofore granted to the sellers pursuant to Decision No. 39006, in Application No. 27268, and C. O. Bliss may, thereafter, operate thereunder, subject to the following conditions:

- (a) That applicants herein shall comply with the rules of the Commission's 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 five (5) days' notice to the Commission and the public.
- (b) If C. O. Bliss acquires said operative right, he shall charge the consideration paid therefor to a suspense account and amortize said payment within two years after the effective date hereof, by charges to net income.
- (c) That within thirty (30) days after the consummation of the transfer herein authorized, C. O. Bliss shall file with this Commission a copy of the Bill of Sale executed under the authority herein granted.

The effective date of this Order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 29th day of June, 1948.

R. F. Anderson
Justice F. Casper
Leah P. Powell
Harold P. Kule
Herbert C. Potter
Commissioners