

ORIGINAL

Decision No. 41870

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of H. R. STEPHENS and J. FRANK )  
WHARTON, copartners, dba Stephens )  
Transportation, to transfer to ) Application No. 29563  
JUNE R. STEPHENS, an individual, )  
dba Stephens Transportation, )  
partnership bus lines operated )  
in Laguna Beach and vicinity. )

O P I N I O N

By Decision No. 38861, dated April 16, 1946, in Application No. 27136, H. R. Stephens and J. Frank Wharton, copartners, were authorized to establish and operate a passenger stage service, for the transportation of persons and baggage or express incidental to the transportation of passengers, and limited to 100 pounds per shipment, when transported on passenger-carrying vehicles, between Laguna Beach, on the one hand, and Irvine and Three Arch Bay, on the other hand, and intermediate points. The certificate included the routes previously operated within the City of Laguna Beach.

By this application, H. R. Stephens and J. Frank Wharton seek authority to sell and transfer said operative right, and equipment used in the operation of said passenger stage service<sup>(1)</sup>, to June R. Stephens. She requests permission to acquire the certificate and property, and to continue to operate the service.

(1) The equipment consists principally of two 21-passenger Dodge busses and one 25-passenger Crown Super-Coach, together with an unspecified amount of tires, parts, and supplies therefor.

The certificate and other assets proposed to be transferred are the portion of the property of the partnership which is the distributive share and interest therein of H. R. Stephens, her husband. In addition to the certificate, the property consists principally of cash, prepaid expenses, and busses. These and other assets of June R. Stephens, doing business as Stephens Transportation, to be used in the business, are listed as of June 13, 1948, as follows:

<b>"CURRENT ASSETS</b>			
Cash on Hand	24.00		
*Cash in Escrow	1500.00	1524.00	
Accounts Receivable		179.20	
Notes Receivable		180.00	
Prepaid Expenses			
Unexpired Insurance	752.66		
Prepaid Licenses	161.88	914.54	
Total Current Assets			2797.74
<b>FIXED ASSETS</b>			
Fare Boxes	208.38		
Reserve for Depreciation	70.36	138.02	
Buses	5703.45		
Reserve for Depreciation	6958.23		
Depreciated Book Value	1745.32		
Add: Estimated Amount to Increase the Book Value of the Three Buses to their Replacement Value	1000.00	2745.32	
Total Fixed Assets			2883.34
<b>OTHER ASSETS</b>			
Miscellaneous Deposits			40.00
<b>TOTAL ASSETS</b>			<u>5721.08</u>
<b><u>CAPITAL</u></b>			
June R. Stephens			<u>5721.08</u>

\*Total cash receivable from the Escrow covering the dissolution of the former partnership of Stephens and Wharton was \$6500.00, of which \$1500.00 shown above has been put into the above business as of June 23, 1948.

No amounts have been included above for the value of the operating franchise and established goodwill although these items are of substantial value and were so considered in the dissolution of the partnership."

Pursuant to the partnership dissolution agreement all of the public utility property is being distributed to June R. Stephens who will continue to operate the service, as an individual, under the same fictitious firm name. H. R. Stephens will be retained as manager of operations.

The agreement of dissolution provides that J. Frank Wharton, one of the original partners, and Lela James Wharton, will receive certain other described partnership property which is not necessary nor useful in the performance of applicant's duties to the public.

No change in fares, schedules, equipment, or routes is contemplated.

After full consideration of the matter, the Commission is of the opinion and finds that the proposed sale is in the public interest and, therefore, the application will be granted. A public hearing is not necessary.

The action taken herein shall not be construed to be a finding of the value of the property or properties herein authorized to be transferred.

June R. Stephens 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 made in the above-entitled matter, the Commission being fully advised in the premises, and finding that the proposed transfer of said public utility property is not contrary to the public interest,

IT IS ORDERED:

(1) That H. R. Stephens and J. Frank Wharton, copartners, be, and they hereby are, authorized to sell and transfer to June R. Stephens, the operative right acquired under authority of Decision No. 38861, dated April 16, 1946, in Application No. 27136, and the automotive equipment and certain other property referred to in the foregoing opinion, and that June R. Stephens be, and she hereby is, authorized to purchase and acquire said operative right and property and thereafter to operate same subject to the following conditions:

- (a) That, in the event the authority to transfer is exercised, June R. Stephens shall notify the Commission thereof within ten (10) days after the actual date of such transfer.
- (b) June R. Stephens shall, within sixty (60) days from the effective date hereof and upon not less than five (5) days' notice to the Commission and the public, establish the service herein authorized and 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, tariffs and time schedules satisfactory to the Commission.
- (c) That, if the purchaser acquires said operative right and property, she may charge to Account No. 150, Organization, Franchises and Permits, Subaccount 152, not more than \$50 of the purchase price of the operative right.

(d) That the authorization herein granted shall lapse and become void if not exercised within six (6) months from the effective date hereof unless further time is granted by subsequent order.

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

Dated at San Francisco, California, this 24<sup>th</sup> day of August, 1948.

R. Z. Johnson  
Justus J. Quisenberry  
August L. Powell  
Harold P. Kaler  
Samuel H. Potter  
COMMISSIONERS