

Decision No. 42450**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 the co-partnership of THOMAS W. GILBOY)
 and EDWARD HUNTER, to transfer oper-)
 ative rights under certificates of)
 public convenience and necessity to)
 a co-partnership consisting of)
 THOMAS W. GILBOY, DOROTHY M. GILBOY)
 and EDWARD HUNTER.)

Application No. 29955

OPINION AND ORDER

By this application, Thomas W. Gilboy and Edward Hunter, co-partners doing business as Gilboy Company of Los Angeles, seek authority to transfer certain operating rights to engage in business as a highway common carrier and operative property used in connection therewith to a co-partnership composed of Thomas W. Gilboy, Dorothy M. Gilboy and Edward Hunter.

According to the verified application, Thomas W. Gilboy's interest of 60 per cent of the business is the community property of himself and Dorothy M. Gilboy, his wife; that they are now legally separated; and that a property settlement agreement has been executed providing that the community property shall be equally divided between them and the highway common carrier business shall be continued under a co-partnership in which they shall have equal powers. No change in management or operation is proposed. The active management of the business will continue to be exercised by Thomas W. Gilboy and Edward Hunter without interference

(1) The operative rights herein involved are covered by certificates of public convenience and necessity granted by Decision No. 36854, dated February 8, 1944; in Application No. 25847 and Decision No. 38809, dated April 2, 1946, in Application No. 27089

by the other co-partner.

It appears that a public hearing is not necessary in this matter and that the application should be granted, as herein provided. However, the action taken herein shall not be construed to be a finding of the value of the properties authorized to be transferred.

Thomas W. Gilboy, Dorothy M. Gilboy and Edward Hunter 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.

IT IS ORDERED:

(1) That Thomas W. Gilboy and Edward Hunter, co-partners, may, after the effective date hereof and on or before February 28, 1949, transfer, and Thomas W. Gilboy, Dorothy M. Gilboy and Edward Hunter, co-partners, may acquire the operative rights, property and business to which reference is made in this decision. Such transfer shall be made pursuant to the terms and conditions set forth in the application.

(2) That applicants 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 60 days from the date hereof and on

not less than 5 days' notice to the Commission and the public.

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

Dated at San Francisco, California, this 25th day of January, 1949.

R. E. Johnson

Joseph M. Powell

Harold P. Kelly

Samuel L. Lott
COMMISSIONERS