

ORIGINAL

Decision No. 42655

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 GUY H. BENTON,
 doing business under the name of
 BENTON BUS LINES,
 to sell, and
 STANLEY H. BENTON and
 PAUL R. BENTON
 to purchase, an automobile passenger
 line between Whittier, Sunshine
 Acres, and Norwalk, and Downey.

Application
No. 30047

OPINION AND ORDER

Guy H. Benton, doing business as Benton Bus Lines, seeks permission to sell to Stanley H. Benton and Paul R. Benton his operative rights and equipment used in the business of transporting passengers between Whittier, Sunshine Acres, and Norwalk and Downey and intermediate points. The operative rights proposed to be transferred to Stanley H. Benton and Paul R. Benton are those established by Decisions Nos. 34341, dated June 24, 1941; 34423, dated July 15, 1941; 35302, dated April 28, 1942; 39250, dated July 30, 1946 and 40562 dated July 29, 1947.

In addition to transferring said operative rights Guy H. Benton has agreed to sell to Stanley H. Benton and Paul R. Benton a 30 passenger G.M.C. bus, a 34 passenger Chevrolet bus, and 30 passenger Chevrolet bus, together with all tools, equipment and accessories appertaining thereto.

A copy of the agreement of sale is on file in this application as Exhibit "A". Purchasers agree to pay for the operative rights and equipment \$25,000. Applicants allege that \$10,400 represents the value of the equipment and \$14,600 the

value of the operative rights. Under the terms of the agreement the Purchasers will pay \$500 of the purchase price in cash upon the execution of the agreement, and \$200 or more per month beginning February 1, 1949, together with interest at 3% per annum on the unpaid balance. The interest is payable annually. The title to the property does not pass to the Purchasers until they have made the final payment.

The Commission is advised that Guy E. Benton desires to sell said properties because of ill health, and that the Purchasers are his sons and have been employed by him. The Purchasers 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 or holders 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 application and is of the opinion that a hearing thereon is not necessary, that the application should be granted subject to the provisions of this Opinion and Order, that the money, property or labor to be procured or paid for through the execution of the agreement of sale referred to in this application is reasonably required by Stanley E. Benton and Paul R. Benton for the purpose of acquiring

said operative rights and properties, therefore,

IT IS HEREBY ORDERED as follows:

1. Guy H. Benton, after the effective date hereof, may sell and transfer the operative rights and properties referred to herein to Stanley H. Benton and Paul R. Benton, who may acquire said operative rights and properties and engage in the passenger transportation business pursuant to the provisions of said operative rights.

2. Guy H. Benton and Stanley H. Benton and Paul R. Benton may execute, after the effective date hereof, and on or before June 1, 1949, a conditional sales contract in, or substantially in, the form of the contract on file in this application as Exhibit "A".

3. Applicants shall 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, 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.

4. The authority herein granted will become effective when Stanley H. Benton and Paul R. Benton, or either of them, has paid the minimum fee required by Section 57 of the Public Utilities Act, which fee is \$25.00.

5. Within thirty (30) days after the execution of the conditional sales contract, Stanley H. Benton and Paul R. Benton, or either of them, shall file a true and correct copy of said contract with the Commission.

Dated at San Francisco, California, this 29th day
of March, 1949.

R. Z. Johnson
Justice F. Calmes
Grant Lowell
Harold P. Hale

Commissioners

