

Decision No. 42823**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 WALTER GILLIS to sell, and PROCTOR)
 J. AULT to purchase, an automobile) Application No. 30246
 freight line operating between Gazelle)
 and Etna, and intermediate points.)

O P I N I O N

In this application the Commission is requested to authorize Walter Gillis to sell and transfer to Proctor J. Ault, and the latter to acquire from the former, one unit of truck equipment and a highway common carrier operative right authorizing service between Gazelle and Etna and intermediate points. The right proposed to be transferred was acquired by the seller pursuant to the Commission's Decision No. 39453, in Application No. 27691. That transfer included a passenger stage operative right which was later revoked by Decision No. 41494, in Application No. 29250.

The proposed transfer would be made pursuant to the terms of an agreement attached to the application and marked Exhibit "A". The total purchase price of \$2,380 would be paid in cash upon authorization of the Commission. Of this purchase price \$300 is asserted to be the value of the operative right and the remainder the value of the equipment proposed to be transferred.

According to the application the seller desires to retire from the transportation business because of his advanced age. The buyer, for the last two and one half years, has been employed as manager of the freight line he now desires to acquire from Gillis and appears to be qualified to continue the operation. The buyer's financial statement attached to the application shows a net worth of approximately \$22,000.

After full consideration we find that the public interest would not be adversely affected by approval of the transfer of the operative rights and properties as proposed and that a public hearing is not necessary. Accordingly the application will be granted. However, the action taken herein shall not be a finding of the value of the properties involved.

Proctor J. Ault 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.

O R D E R

An application having been filed requesting authority to transfer operative rights and properties and the Commission now being fully informed in the premises,

IT IS ORDERED:

(1) That on or after the effective date hereof and on or before July 1, 1949, Walter Gillis may transfer to Proctor J. Ault and the latter may acquire from the former the operative rights and properties referred to in the foregoing opinion and thereafter to conduct operations pursuant to said operative rights.

(2) That appropriate tariffs and time tables as required

by General Orders Nos. 80 and 93-A shall be filed in triplicate on or after the effective date hereof and on or before July 1, 1949, on not less than 5 days' notice to the Commission and the public.

(3) That within 30 days after the consummation of the transfer herein authorized Proctor J. Ault shall notify the Commission in writing of that fact and shall within said period file with the Commission a true copy of any bill of sale or other instrument of transfer which may have been executed to effect the transfer authorized.

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

Dated at San Francisco, California this 3rd day of May, 1949.

A. J. [Signature]
Justice F. Coe
Harriet K. [Signature]
Bonnetta [Signature]
Commissioners