ORIGINAL

Decision No. 42434

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of D. D. McElroy, an individual, doing business as MAC'S AUTO TOURS, to sell, and TANNER MOTOR TOURS, LTD., a corporation, to purchase, operative rights and equipment.	Application No. 30672

O P I N I O N

This is an application for an order of the Commission authorizing D. D. McElroy, hereinafter referred to as Vendor, to sell certain operative rights and property to Tanner Motor Tours, Ltd., hereinafter referred to as Vendee.

The application shows that Vendor, doing business under the firm name and style of Mac's Auto Tours, is engaged in operating passenger coaches in sight seeing tours in Southern California; that Vendor now is in ill health and is not able to continue the operation of the service; and that accordingly Vendor has made arrangements to sell to Vendee, for the sum of $35,000, the certificate of public convenience and necessity granted by Decision No. 32648, dated December 12, 1939, under which certificate service now is being given, and six Flxible motor coaches.

Under the terms of the agreement of sale (Exhibit "A") the Vendee agrees to pay $10,000 of the purchase price following approval by this Commission of the transaction and to issue a note for the remaining $25,000, said note to bear interest at the rate of 5% per annum and to be payable at the rate of $500 or more per month. The first of said payments is due on the first day of the first month following the effective date of the order of the Commission approving the transfer. The payment of the note will be

secured by a chattel mortgage, or mortgages, on the equipment.

Vendee presently is engaged in operating sight seeing tours in Southern California and proposes to continue the operations formerly given by Vendor. The Vendee 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

The Public Utilities Commission having considered the above entitled application, and being of the opinion that a public hearing thereon is not necessary, that the application should be granted, as herein provided, that the money, property or labor to be procured or paid for through the issue of a note for $25,000, is reasonably required by Tanner Motor Tours, Ltd. for the purpose specified herein and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. D. D. McElroy, after the effective date hereof and on or before December 31, 1949, may sell to Tanner Motor Tours, Ltd., the certificate of public convenience and necessity granted by Decision No. 32648, dated December 12, 1939, and the passenger coaches referred to in this proceeding, such sale and purchase to

be in accordance with the terms of the agreement filed in this proceeding as Exhibit "A".

2. Tanner Motor Tours, Ltd., in part payment of said certificate and coaches, may issue a note in the principal amount of $25,000, payable as indicated in the preceding opinion, and may execute a chattel mortgage, or mortgages, to secure the payment of said note, said chattel mortgage, or mortgages, to be in, or substantially in, the same form as that filed in this proceeding.

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 schedules within sixty days from the date hereof and on not less than one day's notice to the Commission and to the public.

4. Tanner Motor Tours, Ltd., shall file with the Commission a report of the issue of the note herein authorized as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

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

6. The authority herein granted will become effective when Tanner Motor Tours, Ltd., has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is $25.00.

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

R. E. Mittelstaedt

Justus F. Craemer

Ray E. Untereiner

Harold P. Huls

Kenneth Potter

Commissioners

PUBLIC UTILITIES COMMISSION
STATE OF CALIFORNIA
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