

ORIGINAL

Decision No. 43867

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 THOMAS J. MALATESTA, to sell, and)
 LILLIAN A. HOTCHKISS, to buy, an)
 automotive passenger and express) Application No. 31006
 line operated between Almaden and)
 San Jose, California.)

O P I N I O N

The Commission is herein requested to authorize Thomas J. Malatesta, who is conducting a passenger stage and express service between Almaden and San Jose, to sell his operative rights and (1) equipment to Lillian A. Hotchkiss.

The purchase agreement, a copy of which is attached to the application provides that Hotchkiss is to pay \$7,500, of which \$6,500 is in cash and \$1,000 is payable on or before September 1, 1950, without interest. The parties have allocated \$3,834 of the purchase price to the equipment and the balance of \$3,666 to the value of the operating rights.

The application discloses that the proposed purchaser has assets of \$41,000, including \$8,900 in cash, and liabilities of \$13,470. She proposes to operate the existing schedules at the rates presently charged by Malatesta.

A public hearing does not appear to be necessary in this matter. We find that the public interest will not be adversely

(1) The operative rights proposed to be transferred were granted by Decision No. 42092, dated October 5, 1948. The equipment consists of one 25-passenger 1939 Chevrolet bus and one 31-passenger 1938 Twin Coach.

affected by approval of the transfer of the operative rights hereinabove specified. The application will therefore be granted. The action taken herein, however, is not to be construed to be a finding of the value of the properties or operative rights involved.

Lillian A. Hotchkiss 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

Application as above entitled having been filed and the Commission having found that the public interest would not be adversely affected,

IT IS ORDERED:

(1) That Thomas J. Malatesta be and he is hereby authorized to sell and transfer to Lillian A. Hotchkiss the operative rights and equipment referred to herein and said Lillian A. Hotchkiss be and she is hereby authorized to purchase and acquire and thereafter operate the same, such sale and transfer to be made in accordance with the terms of the contract attached to the application as Exhibit "A".

A. 31006 AM

(2) That Thomas J. Malatesta and Lillian A. Hotchkiss shall comply with the provisions of General Orders Nos. 79 and 80 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 date hereof and on not less than five (5) days' notice to the Commission and the public.

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

Dated at San Francisco, California, this 28th day of February, 1950.

R. J. Indurain
Justus R. Coenen
Robert L. Miller
Harold H. Hale
Herbert L. Potter
COMMISSIONERS