

ORIGINAL

Decision No. 44053

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 FRANK J. BARKO, dba FONTANA BUS LINES,)
 to purchase and acquire the operative)
 right of HENRY F. ADAMS, ALBERT C.)
 HAMLIN and EMERSON J. PANN, dba) Application No. 30994
 ABH LINES, to operate an automotive) (as amended)
 stage service for the transportation)
 of passengers and baggage between)
 Riverside, California, and Riverdale)
 Acres in Riverside County, California.)

O P I N I O N

By this application, Henry F. Adams, Albert C. Hamlin, and Emerson J. Pann, doing business as ABH Lines, request permission to sell, and Frank J. Barko, doing business as Fontana Bus Lines, seeks permission to purchase the certificate of public convenience and necessity granted by Decision No. 39624, dated November 15, 1946, in Application No. 27859, authorizing passenger stage service between Riverside and Riverdale Acres, in Riverside County. Frank J. Barko is presently conducting a passenger stage service between Fontana, California, on the one hand, and Colton and Riverside, California, on the other hand, under the name of Fontana Bus Lines⁽¹⁾.

The purchase agreement, a copy of which is attached to the amendment to the application, recites that the transfer of the certificate is "for the consideration of One Dollar (\$1.00) and

(1) Dec. No. 38302, dated Oct. 16, 1945, in Appl. No. 26804
 Dec. No. 38805, dated April 2, 1946, in Appl. No. 27259
 Dec. No. 39409, dated September 17, 1946, in Appl. No. 27714
 Dec. No. 40695, dated September 10, 1947, in Appl. No. 28437
 Dec. No. 40725, dated September 23, 1947, in Appl. No. 28436
 Dec. No. 43562, dated November 29, 1949, in Appl. No. 30668

other valuable consideration, the receipt of which is hereby acknowledged . . .". Counsel for Frank J. Barko has advised the Commission that the sole consideration for the transfer of the operative rights under Decision No. 39624, on Application No. 27859, is the sum of One Dollar (\$1.00), and that the "other valuable consideration . . ." is the purchase by Frank J. Barko of the automotive equipment of ABH Lines, which equipment consists of two vehicles, for the sum of \$500. This is the present book value of the two vehicles.

The financial statement of Frank J. Barko indicates that he has a net worth of \$8,233.02.

The proposed transfer does not appear to be contrary to the public interest, and it is our conclusion that the authority sought should be granted. A public hearing is not necessary. Such authority shall not be construed to be a finding of the value of the operative rights herein authorized to be transferred.

Frank J. Barko 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 therefor having been filed and considered, the Commission now being fully advised and finding that the proposed transfer of said operative right is not contrary to the public interest,

IT IS HEREBY ORDERED:

(1) That Henry F. Adams, Albert C. Hamlin, and Emerson J. Pann, doing business as ABH Lines, be, and they hereby are, authorized to sell and transfer to Frank J. Barko, the certificate of public convenience and necessity acquired by Decision No. 39624, in Application No. 27859, and said Frank J. Barko be, and he hereby is, authorized to purchase and acquire said certificate in accordance with the terms of the agreement dated December 31, 1949, a copy of which is attached to the amendment to Application No. 30994.

(2) That, within thirty (30) days after the consummation of the transfer herein authorized, Frank J. Barko shall notify the Commission thereof in writing, and shall file with the Commission a true copy of any instrument, other than the agreement of December 31, 1949, which may be executed to effect said transfer.

(3) That, after the effective date hereof, and on or before May 15, 1950, applicant Frank J. Barko shall comply with the provisions of General Orders Nos. 79 and 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables on not less than five (5) days' notice to the Commission and the public.

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

Dated at San Francisco, California, this 18th day of April, 1950.

R. E. Anderson
James F. O'Connell
Charles H. Lowell
Harold P. Kula
Kenneth W. Potter
COMMISSIONERS