

ORIGINALDecision No. 44257

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
S. C. BROWN and ANNE S. BROWN, to)
sell, and MELVIN J. STOTLER and)
ERNESTINE P. STOTLER, to purchase,) Application No. 31367
a passenger stage line operated)
between Danville and Walnut Creek,)
California.)

O P I N I O N

The Commission is herein requested to authorize S. C. Brown and Anne S. Brown, who are providing a passenger stage service between Danville and Walnut Creek and intermediate points, (1) to sell their operative rights, together with one 29-passenger, 1943, International bus and one 31-passenger, 1933, Twin Coach bus to Melvin J. Stotler and Ernestine P. Stotler.

Applicants allege that pursuant to the terms of an oral contract entered into on April 15, 1950, the buyers are to pay the sellers \$2,500, of which \$1,350 is allocated to the operative rights and \$1,150 to the equipment. According to the application the vendees are to deposit \$2,500 cash in escrow out of which all obligations of the sellers in connection with passenger stage business are to be paid and the residue of the purchase price then remaining, estimated at \$100, is to be delivered to the sellers.

(1) The operative rights were created by Decision No. 43417, dated October 18, 1949, in Application No. 30578, and by Decision No. 40539, dated July 22, 1947, in Application No. 28548, as amended by Decision No. 40986, dated December 1, 1947, in Application No. 28909, and Decision No. 42824, dated May 3, 1949, in Application No. 30213.

Applicants allege that during the calendar years 1948 and 1949, operating revenues amounted to \$3,339 and \$4,639, and operating expenses to \$5,696 and \$9,084, respectively. The net operating losses for those years amounted to \$2,356 and \$4,445. A financial statement appended to the application indicates that the purchasers possess assets in the sum of \$8,438.50, of which \$4,223.50 is cash. No reference to liabilities is made therein. Further, it is alleged that the purchasers have contracted to buy a rebuilt 30-passenger, 1939 Yellow Coach for \$1,700 cash, which will be added to the equipment now being utilized.

The application states that sellers have at no time suspended operations. The fares and charges presently in effect will be continued.

We find that the public interest will not be affected adversely by approval of the transfer of the operative rights and property involved herein. The application will, therefore, be granted. In taking this action we are making no finding of the value of the operative rights and property involved. A public hearing is not necessary.

Melvin J. Stotler and Ernestine P. Stotler 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 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, the Commission being fully informed therein and good cause appearing,

IT IS ORDERED:

(1) That S. C. Brown and Anne S. Brown, after the effective date hereof and on or before August 31, 1950, may sell and transfer to Melvin J. Stotler and Ernestine P. Stotler, the operative rights and property referred to in the opinion hereof, and the latter may acquire and operate the same, such sale and transfer to be made in accordance with the terms of the contract as set forth in the application.

(2) That within 30 days after completion of the transfer herein authorized Melvin J. Stotler and Ernestine P. Stotler shall notify the Commission in writing of that fact and within said period shall file with it a true copy of the bill of sale or any other instrument which may be executed by S. C. Brown and Anne S. Brown to effect the transfer.

(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 60 days after the effective date hereof and on not less than five 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 26th day of May, 1950.

R. J. [Signature]
Justin J. [Signature]
[Signature]
[Signature]
[Signature]
COMMISSIONERS