

Decision No. 45291

31927

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
COLBERG TRANSPORTATION CO., a cor-)	
poration, to sell and of JAMES W.)	Application No. 31927
WOOTTEN (Charter Transit Co.) to)	
purchase, certain operative rights)	
and automotive equipment.)	
-----)	

O P I N I O N

Colberg Transportation Co., of Stockton, requests authority to sell its passenger stage operative rights between Stockton and certain Delta points, together with three buses, to James W. Wootten for \$6000, in accordance with an agreement of sale attached to the application as Exhibit A. Wootten joins in the request. There were no protests to the proposed transfer.

By Decision No. 42167, in Application No. 29009, Colberg Transportation Co. was authorized to establish a bus service, subject to certain local restrictions, between (a) Stockton and Venice Island Ferry and intermediate points, and (b) Stockton and Bacon Island Ferry and intermediate points, as an enlargement of, and to be consolidated with, the company's existing on-call vessel service between Stockton and certain Delta island points authorized by earlier Commission decisions. (1) Colberg Transportation Co. was recently authorized to operate its buses from September 1 to June 30 in each year, since the principal users of its service were school children. (Dec. No. 44657, App. No. 31598.)

(1) Dec. No. 28283, Case No. 3824; Dec. No. 29778, Case No. 4012. The vessel operation has practically ceased and is not included in the proposed transfer.

The application recites that the buyer, Wootten, has been an employee of the company since 1940, is fully experienced in every detail of the business and is qualified to conduct the operation as the sole owner. It is further alleged that Henry J. Colberg, the company's only stockholder, is no longer able to give personal attention to the business due to advanced age; that the company has not been operating profitably and there is need of reviving interest in the service on the part of residents and workers in the Delta area; and that no other passenger stage corporations are authorized to serve the area from Stockton.

Of the \$6000 stated to be the consideration for the transfer, the sum of \$5300 is to be paid in cash on execution of the agreement. The balance of \$700 will be represented by a promissory note payable in installments of \$50 per month with interest at 4 per cent per annum on deferred payments. The vehicles to be sold consist of one 1942 Studebaker 29-passenger bus, one 1943 G.M.C. 33-passenger bus, and one 1948 G.M.C. 41-passenger bus, of a total value, as appraised on August 25, 1950, of \$7500. Assets of the purchaser, according to an exhibit attached to the application, include cash on hand, notes receivable, stocks and bonds, and a 1949 automobile, totalling \$12,440. No liabilities are indicated. The buyer proposes to maintain present schedules and rates.

Upon full consideration of the application we conclude that the proposed transfer of operative rights and property will not be adverse to the public interest and it will accordingly be authorized. The action taken herein, however, shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

James W. Wootten, doing business as Charter Transit Co., 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 therefor having been filed and considered, the Commission now being fully advised and basing its order upon the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED:

(1) That Colberg Transportation Co., a corporation, after the effective date hereof and substantially in accordance with the agreement attached to the application herein as Exhibit A, may sell and transfer to James W. Wootten, an individual doing business as Charter Transit Co., the passenger stage certificate and other property described in said application, and said James W. Wootten may purchase said property and thereafter conduct the passenger stage operation authorized by said certificate.

(2) That James W. Wootten, after the effective date hereof, for the purpose of financing in part the cost of said properties, may issue a promissory note in the principal sum of \$700, payable in monthly installments of \$50 and bearing interest at the rate of 4 per cent per annum on deferred payments, it being the opinion of the

Commission that the money, property, or labor to be procured or paid for through such issue is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

(3) That 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 sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission and the public.

(4) James W. Wootten, within thirty (30) days after the issue of the note herein authorized, shall file with the Commission a copy of the note as actually issued, and in addition shall file a copy of the journal entries used to record on his books the purchase of the properties under the authority herein granted.

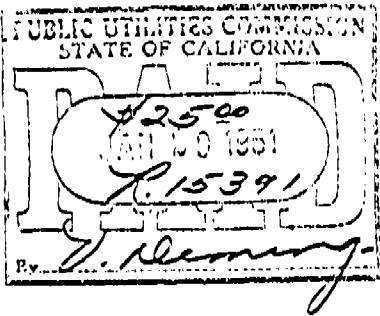
(5) Within thirty (30) days after execution of the agreement of sale transferring the aforesaid properties, Colberg Transportation Co. shall file with the Commission a true copy of said executed agreement and of each and every book entry recording the sale of said properties.

(6) The authority herein granted to issue a note will become effective when James W. Wootten has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is twenty-five (\$25.00) dollars.

(7) The authority herein granted will expire if not exercised on or before May 31, 1951.

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

Dated at San Francisco, California, this 23rd
day of January, 1951.



R. E. Drummond
Justice J. C. Calles
Harold A. Huls
Kenneth W. Pottler

COMMISSIONERS