

CONFIDENTIAL

Decision No. 46654

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
LILLIAN A. HOTCHKISS to sell and)
CLAUDE A. KINGSBURY to purchase an)
automotive passenger line operated)
between Almaden and San Jose, Cali-)
fornia.)

Application No. 32989

O P I N I O N

The Commission is herein requested to authorize Lillian A. Hotchkiss, who is providing a passenger stage service between Almaden and San Jose, to sell her operative rights (Decision No. 43867, in Application No. 31006, dated February 28, 1950) and equipment to Claude A. Kingsbury.

A copy of a contract of sale dated November 23, 1951, marked Exhibit "A", together with an addendum thereto, dated December 4, 1951, marked Exhibit "F", is attached to the application and provides that the purchaser is to pay \$4,600, of which \$3,600 is allocated to the operative rights and \$1,000 to the equipment. The vendee is to pay \$200 in cash upon execution of the agreement; \$1,300 on the date control is vested in the buyer, and \$3,100 in monthly installments of \$50 or more, payable the first day of each month together with interest at the rate of six per cent per annum, to be evidenced by a promissory note secured by a chattel mortgage on the equipment. The addendum provides that in the event the buyer shall default in making the monthly payments or shall attempt to resell said operative rights, the seller shall have the right to repurchase the same for an amount equal to the balance of the purchase price then remaining unpaid.

A financial statement appended to the application indicates that the buyer has a total net worth of \$10,450, of which \$1,400 is represented by cash in the bank and \$1,500 by one 1941 Yellow bus which will be utilized if this transfer is authorized.

We find that public interest will not be adversely affected by approval of the transfer of the operative rights and property with which we are here concerned. We further find that the property to be procured or paid for by Claude A. Kingsbury pursuant to the terms of the above-mentioned contract is reasonably required for the purpose specified 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.

Claude A. Kingsbury is hereby placed on 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, now therefore,

IT IS ORDERED:

(1) That Lillian A. Hotchkiss after the effective date hereof and on or before March 5, 1952, may sell and transfer to

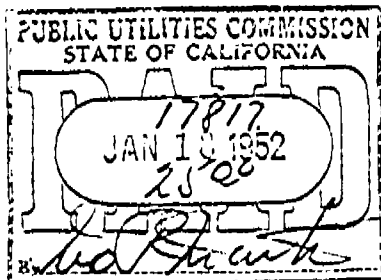
Claude A. Kingsbury the operative rights and property referred to herein and the latter may acquire and thereafter operate the same, such sale and transfer to be made in accordance with the terms of the contract and addendum thereto attached to the application, and the said Claude A. Kingsbury may incur an indebtedness of \$3,100 under the terms of said contract to finance in part the purchase of said rights and property.

(2) That within 30 days after completion of the transfer herein authorized Claude A. Kingsbury 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 executed by Lillian A. Hotchkiss to effect the transfer.

(3) That applicants shall comply with the provisions of General Order No. 79 and Part 19 of General Order No. 98 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 5 days' notice to the Commission and the public.

(4) That the authority herein granted will become effective when Claude A. Kingsbury has paid the minimum fee of \$25 prescribed by Section 1904(b) of the Public Utilities Code. Except as herein otherwise expressly provided, this order shall become effective 20 days after the date hereof.

Dated at San Francisco, California, this 15th day of January, 1952.



[Signature]
President
[Signature]
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Commissioners