

ORIGINAL

Decision No. 47178

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 MAX H. GREEN, doing business as)
 MOUNTAIN AUTO LINE to sell and JACK)
 A. ROESCH to purchase passenger stage) Application No. 33239
 operating rights between San)
 Bernardino and San Bernardino)
 Mountain Resort Area.)

O P I N I O N

By Decision No. 43644, dated December 20, 1949, on Appli-
 cation No. 30728, Max H. Green, an individual doing business as
 Mountain Auto Line, was granted certificates of public convenience
 and necessity authorizing him to establish and operate a passenger
 stage service for the transportation "of persons and their baggage
 or express", and also a highway common carrier service for the
 transportation of general commodities "between San Bernardino, on
 the one hand, and Crestline, Lake Arrowhead, and Big Bear Lake, on
 the other hand, and intermediate and off-route points", along
 routes described in said decision. (1)

(1) Restrictions applicable to the passenger stage service are as follows:

(a) The transportation of express shall be incidental to the transportation of passengers, shall be limited to a weight of one hundred (100) pounds per shipment, and shall be transported on passenger vehicles only.

(b) No passengers, baggage, or express shall be transported having both origin and destination between the following points:

(1) Applicant's terminus in the city of San Bernardino and a point one and six-tenths (1.6) miles north of the intersection of Sierra Way and 40th Street.

(2) Applicant's terminus in the city of San Bernardino and the intersection of Highland Avenue and City Creek Road, near Highland.

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By this application Max H. Green seeks authority to sell and transfer to Jack A. Roesch, an individual who has joined in the application, his passenger stage operating rights, five (5) 25-passenger buses and miscellaneous auto parts, tires, accessories and office supplies, for a total consideration of \$20,000.

The seller will retain his highway common carrier operating rights.

It is alleged that the two GMC buses and the three Chevrolet buses have a present market value of \$15,500; the spare parts and accessories, \$1,250; and the office supplies, \$250. A value of \$3,000 is placed on the operating right. Said figures, totaling \$20,000, are the basis upon which this sale will be consummated.⁽²⁾

The terms of sale are \$20,000 with interest at six per cent per annum on deferred balances, payable as follows:

"\$2,500 on the effective date of the approval of this agreement and transfer by the Public Utilities Commission of the State of California; \$100 together with interest each month thereafter for eleven (11) months. \$2,500 together with interest one year thereafter; balance of principal then remaining to be paid in 60 equal installments together with interest on unpaid balance commencing

(1) Contd.

(3) Any two points within the city of San Bernardino.

(c) When operating over the alternate route, via Victorville and Lucerne Valley, no passengers, baggage, or express, having both origin and destination between applicant's terminus in the city of San Bernardino and Lucerne Valley, shall be transported.

(2) The book and original cost of the five buses is alleged to be \$28,444.78.

"13 months from the effective date of said Commission approval and monthly thereafter until the total balance of said principal together with interest thereon is paid.

"Should default be made in the payment of any installment of principal or interest when the same shall become due, then seller may, at his option, declare the entire balance of the purchase price to be then due and payable."

The seller desires to dispose of this operating right because of his health which prevents him from operating both services.

The purchaser is now established in the transportation business in the City of San Bernardino, operating as a school bus contract carrier. His financial condition, as of December 31, 1951, was as follows:

Total tangible assets	\$32,350
Total liabilities	<u>9,800</u>
Net Worth	\$22,550

The principal assets consist of real estate, \$14,500, one bus, four coaches and one Buick valued at \$16,300. Other assets are cash, \$500, and paid-up insurance, \$1,000. The liabilities are indebtedness on real estate, \$4,800; due on operating equipment, \$4,000; and due on household furniture, \$1,000. No appraisals or other data have been filed to support the value of the purchaser's assets.

Both applicants request that the present limitation of 100 pounds per each express shipment be reduced to 25 pounds. The purchaser proposes free transportation of baggage not exceeding 50 pounds.

The application is not opposed and, as it appears that the proposed sale is not adverse to the public interest, it will

be granted. A public hearing is not necessary.

The action taken herein shall not be construed to be a finding of value of the property herein authorized to be transferred, nor to be a finding of value of any other property hereinabove mentioned.

Jack A. Roesch 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 having been made, the Commission being fully advised in the premises, and good cause appearing,

IT IS ORDERED:

(1) That Max H. Green, an individual, may sell and transfer, on or before September 30, 1952, to Jack A. Roesch, an individual, the operating right and property hereinabove described, said sale and transfer to be made upon the terms and conditions of the agreement of sale, as amended, filed with this application. Jack A. Roesch is authorized to purchase said operative right and property and incur an indebtedness in part payment therefor, as set forth in said agreement. In the opinion of the Commission, the money, property or labor to be purchased or paid for through such

evidence of indebtedness is reasonably required by Jack A. Roesch for the purpose indicated herein.

(2) That Jack A. Roesch shall operate a passenger stage service created by Decision No. 43644, on Application No. 31055, upon the terms and conditions as set forth in said decision as hereinafter amended.

(3) That subparagraph (a) of paragraph I. of the Order in Decision No. 43644 be, and it hereby is, amended to read as follows:

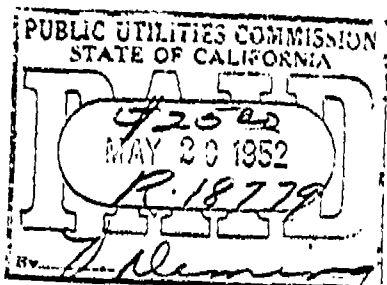
(a) The transportation of express shall be incidental to the transportation of passengers, shall be limited to a weight of twenty-five (25) pounds per shipment, and shall be transported on passenger vehicles only.

(4) That applicants shall file in triplicate and concurrently make effective appropriate tariffs and time schedules, within 60 days from the effective date hereof on not less than one day's notice to the Commission and the public.

(5) That, in the event the authority to sell and purchase is exercised, Jack A. Roesch shall notify the Commission in writing of that fact within 30 days after the date of sale.

(6) That the authority herein granted will become effective upon the payment of the minimum fee prescribed by Section 1904 (b) of the Public Utilities Code, which fee is \$25.00.

Dated at San Francisco, California, this 16th day of May, 1952.



R. J. [Signature]
President
Justus J. [Signature]
Harold P. [Signature]
Genevieve [Signature]
Commissioners