

ORIGINAL

Decision No. 47850

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
PAUL W. DIEFENBACH, dba WEST ORANGE)	
TRANSIT COMPANY, for authority to)	
sell and the Application of ARTHUR)	Application No. 33779
V. HARVEY and WILLIAM D. BOURNE to)	
buy said WEST ORANGE TRANSIT COMPANY)	
and Franchise.)	

In the Matter of the Application of)	
ARTHUR V. HARVEY and WILLIAM D. BOURNE)	
dba WEST ORANGE TRANSIT COMPANY, for)	Application No. 33793
authority to make a temporary exten-)	
sion or in the alternative to make)	
a periodic extension, to Vessel's)	
Ranch.)	

O P I N I O N

Paul W. Diefenbach has been operating a passenger stage service between Long Beach and Stanton, in Orange County, along the route described in Decision No. 45978, subject to certain restrictions prescribed in Decision No. 45460. In 1951 he was also authorized to operate a similar service to Vessel's Ranch, a short distance from Los Alamitos which is a point of service, when quarter horse racing was being conducted at said ranch. The latter certificate expired December 16, 1951.

By Application No. 33779, Diefenbach seeks authority to sell his operating right to Arthur V. Harvey and William D. Bourne who desire to continue the operation.

By Application No. 33793, Arthur V. Harvey and William D. Bourne request authority to operate a passenger stage service to and from points and places now authorized to be served and Vessel's Ranch. This service will be operated only when horse racing is in progress at said ranch, usually in the fall. This year's meet begins October 29 and ends November 15.

The purchasers propose to continue the same operation as previously conducted by Diefenbach and to add the race track service. The same fares will be charged as are published in the present tariff which will be adopted by the purchasers. However, the latter have filed an application for a fare increase (Application No. 33974), which is now being considered by the Commission's staff. Applicants, realizing that the latter application will have to be set for public hearing, have asked that the transfer application and the application to extend service to Vessel's Ranch be considered ex parte in view of the pending race meeting.

The consideration for the transfer of the business is stated to be \$1,000 cash, of which \$50 is for operating rights. No tangible property will be transferred.

The purchasers are experienced in the bus transportation business. Arthur V. Harvey now owns and operates a school bus service in the same general area, and William D. Bourne manages the former's bus service in the Compton area.

A financial statement filed with the application shows that, as of August 31, 1952, Arthur V. Harvey had tangible assets of \$151,401.49 and liabilities of \$35,123.65. Intangibles (good will) of \$30,000 was also listed. No financial statement was filed for William D. Bourne.

Purchasers proposed to use a 25-passenger 1945 Ford bus in performing the said service, and will have two stand-by buses, one a 37-passenger 1942 Dodge and the other a 40-passenger 1951 International.

A need for the proposed service to the Vessel's Ranch is indicated for the quarter horse racing season. The service has been requested. We find that public convenience and necessity require the establishment and operation of the proposed transportation

service, limited, however, for those periods only when such racing is being conducted pursuant to an authorized race meeting.

The fares (in cents) proposed to and from the Vessel's Ranch are as follows:

<u>Long Beach</u>	<u>Spring & Bellflower</u>	<u>Los Alamitos</u>	<u>Hawaiian Gardens</u>	<u>Cypress</u>	<u>Knott's Farm</u>	<u>Stanton</u>
35 (63)	20	10	20	25 (45)	35 (63)	35 (63)

() Round-trip fares. Federal tax, if any, is included.

Said fares are the same as proposed in Application No. 33794. The above fares are for a special race track service to a point not now authorized to be served. There being no present applicable fares, the question of charging a greater or lesser compensation does not arise.

We have considered the transfer requests and, it appearing that the public interest will not be adversely affected, the applications will be granted. A public hearing is not necessary.

Arthur V. Harvey and William D. Bourne 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

Applications having been made, the Commission being fully advised in the premises and having found that public convenience and necessity require the establishment and operation of a passenger stage service as proposed in Application No. 33793, and that the proposed sale and transfer requested in Application No. 33779 is not adverse to the public interest, and good cause appearing,

IT IS ORDERED:

I

(1) That Paul W. Diefenbach may sell and transfer, on or before December 31, 1952, to Arthur V. Harvey and William D. Bourne, copartners, the operating rights hereinabove described, and the latter are authorized to purchase said rights and operate thereunder in the manner and upon the conditions provided in Decisions Nos. 45460 and 45978.

(2) That applicants shall file in triplicate, and concurrently make effective, appropriate tariffs and time schedules, within sixty (60) days after the effective date hereof, and on not less than one (1) day's notice to the Commission and to the public.

(3) That, in the event the authority to sell and purchase is exercised, Arthur V. Harvey and William D. Bourne shall notify the Commission in writing of the fact within thirty (30) days after the date of sale.

IT IS FURTHER ORDERED:

II

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Arthur V. Harvey and William D. Bourne, copartners, doing business as West Orange Transit Company,

authorizing the establishment and operation of service as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, for the transportation of persons between Los Alamitos and Vessel's Ranch and intermediate points, as an extension and enlargement of and to be consolidated with applicants' operating rights, to be acquired under paragraph (1) hereof, and subject to the following conditions:

- (a) The service authorized pursuant to the foregoing certificate shall be rendered only during such periods as horse racing is conducted at Vessel's Ranch.

(2) That, in providing service pursuant to the certificate herein granted, there shall be compliance with the following service regulations:

- (a) Within thirty (30) days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted.
- (b) Within sixty (60) days after the effective date hereof, and upon not less than one (1) day's notice to the Commission and the public, applicants shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs and time schedules satisfactory to the Commission.
- (c) Subject to the authority of this Commission to change or modify such at any time, Arthur V. Harvey and William D. Bourne, copartners, doing business as West Orange Transit Company, shall conduct said passenger stage operations over and along the following described route:

Along Lexington Avenue and Katella Road.

Applicants are authorized to turn their motor vehicles at termini and intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections, or in accordance with local traffic rules.

The effective date of this order shall be the date hereof.

Dated at San Francisco California, this 21st day of October, 1952.

R. J. Anderson
President
Justice J. Cassin
Harold Kula
Kenneth Pitts
W. E. Mitchell
Commissioners