

ORIGINAL

Decision No. 48205

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
PETER F. LAPP dba EL CAJON VALLEY)
LINE (to sell) and A. L. WILLINGHAM)
(to buy) the operating rights and)
equipment of the El Cajon Valley)
Lines.)

Application No. 33922

Peter F. Lapp and A. L. Willingham, applicants.
D. E. Hanson, for San Diego Transit System.
Freeman J. Durgin, for El Cajon Chamber of Commerce, and
Alton H. Putnam, for Mountain Stage Line, Inc.,
interested parties.

O P I N I O N

Peter F. Lapp, applicant and seller herein, now operates a passenger stage service in the City of El Cajon and vicinity pursuant to certificates of public convenience and necessity granted by this Commission.⁽¹⁾ He requests authority to sell and transfer to A. L. Willingham, also an applicant, his operating rights and equipment for a consideration of \$14,000, payable \$2,000 in cash, the balance by promissory note in the principal sum of \$12,000, with interest at the rate of 6 per cent per annum, payable in monthly installments of \$500 each, plus interest, said note to be secured by chattel mortgage on the equipment being transferred. Said equipment consists of five buses, two Johnson changers, one coin collector, and miscellaneous parts and accessories valued by the parties at \$12,000. A value of \$2,000 is placed on the good will of the business.

A public hearing was held in El Cajon before Commissioner Craemer and Examiner Chiesa. Evidence having been adduced, the matter was submitted for decision.

A. L. Willingham has many years experience in the school bus and charter-bus business in San Diego County, particularly in

(1) Decisions Nos. 38917, 40132, 40378, 40533, 41433, 43593 and 45599.

San Diego, El Cajon and other neighboring communities. The record shows that he is financially responsible and sufficiently experienced in motor vehicle transportation to satisfactorily conduct the operations he seeks to acquire. He owns numerous buses, some of which will be added to the present service or will be used for replacements.

Applicant Willingham proposes to continue the present schedules and, when and if necessary, revise and improve the service. We find that the proposed sale and transfer are not adverse to the public interest. Applicants have asked for prompt consideration of this matter as equipment license fees and insurance premiums will soon be due.

As it appears that the agreed purchase price is approximately \$2,000 in excess of the amounts assigned to the tangible property, A. L. Willingham, upon acquisition of said business, shall charge this excess amount to Account 1550, Other Intangible Property.

The application was not opposed and will be granted.

A. L. Willingham 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

A public hearing having been held in the above-entitled proceeding, the Commission being fully advised in the premises and

being of the opinion that the application should be granted as herein provided; therefore,

IT IS ORDERED as follows:

(1) That Peter F. Lapp may sell and transfer, on or before March 31, 1953, to A. L. Willingham, the operating rights and property hereinabove described, said sale and transfer to be made upon the terms and conditions of the agreement of sale filed with this application. A. L. Willingham is authorized to purchase said operative rights and property and operate a passenger stage service upon the terms and conditions as set forth in the decisions creating the operating rights herein authorized to be transferred.

(2) That A. L. Willingham may issue his promissory note in the amount of \$12,000 and may execute a chattel mortgage for the purpose indicated in this application, said note to be substantially upon the terms and conditions as shown on Exhibit "D" filed with this application, 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 said purpose, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

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

(4) Within thirty (30) days after the issue of the note herein authorized, applicant shall file with the Commission a copy thereof, as actually executed, together with a copy of the chattel mortgage, and a statement showing the purposes for which the note was issued.

(5) The authority herein granted will become effective when applicant has paid the fee prescribed by Section 1904 (b) of the Public Utilities Code, which fee is Twenty-five Dollars (\$25.00).

Dated at San Francisco, California, this 27th day of January, 1953.

R. Z. [Signature]
President

Justus J. Crueser
Harold H. Hill

Rosemary Patton
John E. Mitchell
Commissioners

