

**ORIGINAL**

Decision No. 49943

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
ARTHUR V. HARVEY & WILLIAM D. BOURNE	)	
doing business as	)	
WEST ORANGE TRANSIT COMPANY,	)	
and	)	
WEST ORANGE TRANSIT CO., INCORPORATED	)	Application
for authority to transfer operating	)	No. 35153
rights and all assets; for permit to	)	(and Amendment)
issue stocks; for authority to make	)	
minor changes in route; and for Ex	)	
Parte Order.	)	
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O P I N I O N

In this application, as amended, the Commission is asked to make its order authorizing Arthur V. Harvey and William D. Bourne to transfer a passenger stage line to West Orange Transit Co., Inc., a corporation, and authorizing said corporation to issue \$4,200 par value of stock and to make certain changes in the route.

The application shows that Harvey and Bourne are engaged in operating a passenger stage line, known as the West Orange Transit Company, between the City of Long Beach, Los Angeles County, and the City of Buena Park, Orange County, that they are desirous of conducting their affairs under a corporate form of organization rather than as a partnership, and that they have caused the organization of West Orange Transit Co., Inc. to take over their rights and properties and to continue the operations.

The assets to be transferred include one bus, materials and supplies and the operative rights represented by a certificate of public convenience and necessity granted by Decision No. 48723, dated

June 16, 1953, which certificate was issued in lieu of existing operating authority. The book values of the assets, and of the outstanding liabilities which the corporation will assume, are reported as follows:

Cash	\$ 212.11
Materials and supplies	390.00
Carrier operative property	2,600.00
Intangible property	<u>1,075.00</u>
Total	4,277.11
Outstanding liabilities	<u>675.92</u>
Balance	<u>\$3,601.19</u>

An investigation by the staff of the Commission indicates that the allowance of \$1,075 for intangible property includes \$50 for the certificate of public convenience and necessity, \$950 for goodwill and \$75 for attorney's fees. The 1953 annual report of the operation of the line shows revenues of \$10,022 and expenses of \$18,268, resulting in a loss of \$8,246.

Upon succeeding to the business the new corporation proposes to make two minor changes in the route of operations. These changes are set forth in Exhibit F attached to the original application and have been approved by the City of Buena Park and by the Los Alamitos Chamber of Commerce. The effect of the changes, according to the application, is to remove the operations from residential streets to main boulevards.

According to the application the transfer of the properties will not cause any change in the rates, time tables or service now offered to the public, other than that resulting from the minor changes in the operating route, and in our opinion will not be adverse to the public interest. However, we are not warranted in accepting the amount claimed for goodwill as the basis for an order authorizing the issue of stock. In addition, consideration must be

given to the amount of liabilities to be assumed by the corporation and it therefore appears to us that the most stock we can authorize, upon the showing made in this proceeding, is the sum of \$2,600.

In making our order in this proceeding we wish to place applicants 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 as to the number of rights which may be given.

The action taken herein shall not be construed to be a finding of the value of the rights and properties herein authorized to be transferred.

Q R D E R

The Commission having considered the above entitled matter and being of the opinion that a public hearing is not necessary, that the application should be granted, as herein provided, that the money, property or labor to be procured or paid for by the issue of \$2,600 of stock is reasonably required by applicant corporation for the purpose specified herein, that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income, and that the request to issue \$1,600 par value of stock should be dismissed without prejudice; therefore,

IT IS HEREBY ORDERED as follows:

1. Arthur V. Harvey and William D. Bourne, on and after the effective date hereof and on or before September 30, 1954, may transfer to West Orange Transit Co., Inc. the certificate of public convenience and necessity and the assets referred to in this proceeding, and West Orange Transit Co., Inc., in payment for such certificate and properties, may assume the payment of outstanding indebtedness and may issue not exceeding \$2,600 par value of its stock.

2. The request of West Orange Transit Co., Inc. to issue the remaining \$1,600 par value of stock is dismissed without prejudice.

3. Ordering paragraph (2) (c) of the order in Decision No. 48723, dated June 16, 1953, is hereby modified to read as follows:

(2)

(c) Subject to the authority of this Commission to change or modify such at any time, Arthur V. Harvey and William D. Bourne, doing business as West Orange Transit Company, shall conduct said passenger stage operations over and along the following described route:

Beginning at the intersection of American Avenue and First Street in the City of Long Beach, thence north on American Avenue, east on Anaheim Street, northeasterly on Los Altos Plaza, southeasterly on Anaheim Road, north on Bellflower Boulevard, east on Spring Street, south on Los Alamitos Boulevard (Norwalk Blvd.), east on Katella Avenue, south on Lexington Drive to the entrance of the Los Alamitos Naval Air Station, and return to Howard Ave., west on Howard Avenue, north on Los Alamitos Boulevard (Norwalk Blvd.), east on Carson Street (Lincoln Avenue), north on Grand Avenue, west on Commonwealth Avenue, north on Western Avenue, east on Artesia Avenue, and south on Grand Avenue, returning by reverse of route.

Also, beginning at the intersection of Katella Avenue and Lexington Drive, thence east on Katella Avenue to the main entrance of the Los Alamitos Race Course at Vessel's Ranch, and return by reverse of route.

Applicant is authorized to turn its 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.

4. Within 60 days after the effective date hereof and on not less than five days' notice to the Commission and to the public, applicants shall supplement or reissue the tariffs and time tables on file with the Commission naming rates, rules, regulations and schedules governing the common carrier operations here involved to show that Arthur V. Harvey and William D. Bourne, doing business as West Orange Transit Company, have withdrawn or canceled and West Orange Transit Co., Inc. has adopted or established as its own said rates, rules, regulations and schedules.

5. West Orange Transit Co., Inc. shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

6. The authority herein granted will become effective 20 days after the date hereof.

Dated at San Francisco, California, this 20<sup>th</sup> day of April, 1954.

*R. F. Johnson*  
 President

*James F. Galloway*

*Benjamin L. Pottel*

*John L. Marshall*

*Gene Higgins*  
 Commissioners