

ORIGINALDecision No. 51604

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Petition of)
 The City of Sacramento to have)
 fixed the just compensation to be)
 paid for the bus transportation) Application No. 35805,
 system of Sacramento City Lines) as Amended
 existing within and adjacent to)
 the boundaries of said city.)

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Sacramento, and Reginald L. Vaughan and
John G. Lyons of Vaughan, Paul & Lyons,
 for the City of Sacramento, petitioner.
Harry B. Seymour, of Downey, Brand, Seymour &
Rohwer, George H. Hook, and Martin McDonough
 for Sacramento City Lines, respondent.
R. B. Cassidy, for the Commission staff.

O P I N I O N

On September 23, 1954, the City of Sacramento, hereinafter referred to as petitioner, filed its petition, Application No. 35805, requesting this Commission to fix the just compensation to be paid by petitioner for the bus transportation system of Sacramento City Lines, a California corporation, hereinafter referred to as respondent, in the manner provided for in Division 1, Part 1, Chapter 8 of the Public Utilities Code. The Commission thereupon issued its order directing respondent to appear and show cause, if any it had, why the Commission should not proceed to hear the petition and to fix such just compensation.

Hearing on the order to show cause was held before Commissioner Justus F. Craemer and Examiner Wilson E. Cline at Sacramento on October 28, 1954. At said hearing respondent filed a written answer consenting to the determination by the Commission of the amount of just compensation to be paid, provided that all of respondent's properties, other than money in bank and cash on

hand; employed by respondent in the operation of its transportation system in the City of Sacramento and adjacent areas be included in the proceeding. Petitioner indicated an intent to apply for leave to amend its petition.

On November 24, 1954, petitioner filed an application for leave to amend its petition in certain respects set forth in detail in said application. On the same day respondent filed its consent to the granting of such petition. On November 30, 1954, the Commission issued its order, Decision No. 50798, authorizing petitioner to amend the application herein, and amending said petition in the manner and to the extent specified and requested in the application for leave to amend.

The lands, property and rights which petitioner is seeking to acquire pursuant to the petition, as amended, are as follows, the intent of petitioner being to acquire all the property, other than money in bank and cash on hand, of the respondent used and useful in the operation of a bus transportation system for the public transportation of passengers:

1: The franchise rights for a motor coach transportation system granted to respondent by ordinances of the City of Sacramento, as set forth in Exhibit "A" of the petition herein, as amended by attachment "1" of the application for leave to amend petition herein.

2: The operating rights and routes granted to respondent by the decisions of this Commission, listed in Exhibit "B" of the petition herein.

3: Lands. All that certain real property situated in the City of Sacramento, County of Sacramento, State of California, described as:

Parcel One: Lots 5, 6, 7 and 8 in the block bounded by 28th and 29th Streets and Capitol Avenue (formerly M Street) and N Streets, in the City of Sacramento, according to the official plat thereof.

Parcel Two: The West 1/2 of Lot 6, all of Lots 7 and 8 in the block bounded by 29th and 30th Streets and Capitol Avenue (formerly M Street) and N Streets, in the City of Sacramento, according to the official plat thereof.

Parcel Three: The East 1/2 of Lot 3 in the block bounded by 28th and 29th and N and O Streets, in the City of Sacramento, according to the official plat thereof.

4. Improvements on Lands. All improvements on the lands described as Parcel One, Parcel Two, and Parcel Three above, consisting of such improvements as buildings, fences, paving, wood bumpers, incinerators, fuel tanks, and oil tanks.

5. Motor Coaches. The 100 GMC motor coaches listed and described in the application for leave to amend petition herein.

6. Service Cars and Equipment. All service cars and equipment owned by respondent such as passenger cars and pickup trucks.

7. Fare Boxes. Ninety-five Johnson Reg-Lock fare boxes, other fare boxes, inserts for fare boxes, pedestals, stanchions, and fare box repair parts.

8. Shop and Garage Equipment. All shop and garage tools, machines and equipment such as, but not limited to: car washer, machinery, work benches, compressor and tank, metal lockers, wood shelving, fire extinguishers, motors, pumps and filters, hose reels for air and lubricants, hack saw machine, drinking fountains, space heaters, paint spray fan and equipment, tire rack, pump for fuel oils in manhole at sidewalk, parts and supplies for shop and garage.

9. Furniture and Office Equipment. All furniture and office equipment such as, but not limited to: desks, chairs, file cabinets, electric fans, electric heaters, card files, waste baskets, business machines, typewriters, office supplies, safes, and money counting, sorting and packaging machines.

10. Miscellaneous Equipment. All miscellaneous equipment not heretofore classified such as, but not limited to: radio equipment, telephone equipment, supplies of tokens, tickets and transfers.

Hearings on the petition, as amended, were held before Commissioner Craemer and Examiner Cline at Sacramento on December 13, 1954, and on March 23, 1955, and at San Francisco on April 18 and 19 and May 9 and 11, 1955. Oral arguments were made before the Commission en banc and Examiner Cline at San Francisco on May 24, 1955. The matter was taken under submission upon the filing of briefs on June 8, 1955.

Lands

The following is a tabulation of the market value appraisals of land submitted in evidence by the witnesses for the various parties:

Land	Market Value		
	City of Sacramento	Commission Witness	Sacramento City Lines
Parcel One	\$128,000	\$136,800	\$140,800
Parcel Two	88,000	83,600	88,000
Parcel Three	12,800	14,400	12,800
Total Land	\$228,800	\$234,800	\$241,600

As shown on the above table the witness for the City of Sacramento and the witness for Sacramento City Lines submitted the same appraisals for Parcel Two and Parcel Three. The appraisal for Parcel One made by the Sacramento City Lines' witness exceeds the appraisal by the City of Sacramento witness by \$12,800. The appraisal of the Commission witness for Parcel One is almost midway between the other two appraisals.

Structures

The following table shows the reproduction cost new, the reproduction cost new less depreciation, and the market value appraisals for structures which appear in the record:

Appraisals of Structures			
Item	Reproduction Cost New	Reproduction Cost New Less Depreciation	Market Value
City of Sacramento			
Parcel One	\$330,745	\$ 52,149	\$ 4,000
Parcel Two	19,663	14,747	8,500
Parcel Three	53,778	26,889	12,200
Total	\$404,186	\$ 93,785	\$ 24,700
Commission Witness			
Parcel One	\$367,133	\$ 71,985	
Parcel Two	27,136	3,800	
Parcel Three	45,161	18,065	
Total	\$439,430	\$ 93,850	
Sacramento City Lines			
Parcel One	\$297,049	\$148,524	\$127,200
Parcel Two	19,700	12,400	12,000
Parcel Three	49,280	39,424	39,200
Total	\$366,029	\$200,348	\$178,400

The record shows that all three witnesses who submitted appraisals of the structures are well qualified to make such appraisals.

In determining the market value of the land the witnesses took into consideration the proximity of the location of the parcels to the Sutter Hospital. The highest and best use appears to be for the development of medical centers for doctors who make use of the facilities of the Sutter Hospital.

The structures on the parcels appear to have a remaining physical life in excess of 10 years. By reason of the factor of obsolescence both the witness for the City of Sacramento and the witness for the Commission were of the opinion that the maximum remaining useful life of the structure on Parcel One would be 10 years. The witness for the Commission was of the opinion that

the obsolescence factor also resulted in a remaining life of 10 years for the building on Parcel Three and a remaining life of 5 years for the improvements on Parcel Two. The witness for the City of Sacramento allowed a remaining useful life of 30 years for the structures on Parcel Two and a remaining useful life of 25 years on the structures on Parcel Three.

In computing market value for the structures the witness for the City of Sacramento ascertained the earnings capabilities of the structures on Parcel One for warehousing purposes, and of the structures on Parcel Three for use as a paint shop. After making an allowance for the cost of removing 1/5 of the paving on Parcel Two he ascertained the earnings capabilities of the remaining area as a parking area.

Both the witnesses for the City of Sacramento and the Commission made investigations respecting the freeway development between 29th and 30th Streets traveling in a northerly-southerly direction in the City of Sacramento. The witness for the City of Sacramento in his appraisal report stated: "Allowing that 'just compensation' would be paid for the land taken, the necessity of acquiring lands immediately adjacent to the facilities now existing would be costly and would tend to hasten a decision of newer and more modern quarters of sufficient size in a more adequate area." The witness for the City of Sacramento was of the opinion that the facilities are fully utilized and hence do not provide for further probability of expansion.

The witness for the Sacramento City Lines in his appraisal report adopted the reproduction cost new less depreciation estimates of Frank Maloney, a builder in Sacramento. On Parcel One an allowance of \$20,500 was made for certain changes and improvements in the building located thereon. The witness for Sacramento City Lines was of the opinion that the structures could continue to be

used during their remaining physical life for the same purposes for which they are now being used and that the highest alternative use of the land with its present improvement is for automotive purposes. Evidence was introduced through operating witnesses of Sacramento City Lines to show that the present facilities are adequate to serve a fleet of 140 buses, thus allowing for an expansion of the present fleet of 100 by 40 per cent.

After reviewing all the evidence the Commission is of the opinion that the value of the structures on Parcels One and Three should be based on reproduction cost new less depreciation computed upon accepting a remaining life of 10 years. The value of the structures on Parcel Two should be based on reproduction cost new of 4/5's of the structures less depreciation. The remaining life should be 30 years. Allowance should be made for the cost of removal of 1/5 of the paving.

Buses

The following table sets forth the appraisals of the various witnesses respecting the 100 transit-type buses of respondent.

Appraisals of Buses						
		: Reproduction Cost		:Market Value:		
		:New Less Depreciation		: Sacramento :		
:No.of:		:Commission		: City :		
:Group:Buses:	Description	:Witnesses	:City Lines	: Lines :		
I	8 GMC - TDH - 4507	\$ 75,520	\$ 78,600	\$ 78,000		
II	7 GMC - TD - 4502	18,900	21,000	24,500		
III	1 GMC - TD - 4505	2,580	2,500	4,000		
IV	45 GMC - TD - 3609	238,050	342,000	337,500		
V	16 GMC - TDH - 3610	127,680	138,000	142,400		
VI	6 GMC - TD - 3602	10,800	15,000	16,500		
VII	17 GMC - TG - 3602	24,310	25,500	25,500		
Fire Extinguishers and Route Signs		Included in Bus Appraisals 6,814				
Total 100		\$497,840	\$629,414	\$628,400		

The City of Sacramento adopted the appraisals of the Commission witnesses.

The important differences in the reproduction cost new less depreciation appraisals of the Commission witness and the respondent's witness appear in Group IV and V buses. The respondent's witness assigned a service life of 15 years to both of these groups of buses. The Commission staff witness assigned a service life of 11.5 years to these buses because he was of the opinion that (a) an obsolescence factor should be assigned to 36-passenger buses in view of the greater suitability of 45-passenger buses to the Sacramento as well as other transit operations throughout the country, and (b) in order to keep the buses in service beyond 12 years a major overhaul, which would be capitalized, would have to be made at that time.

Both the petitioner and the respondent are in agreement that market value should be used by the Commission where such value is ascertainable, but in the absence of such value reproduction cost new less depreciation should be used in making its determination of just compensation. The witnesses for the petitioner were of the opinion, as a result of their own investigation, that there were not sufficient sales of the buses of the type owned by respondent to establish a market value.

The respondent's witness who testified regarding the market value of the buses is the owner of Rhodes Bus and Equipment Co., Inc., and since 1929 he has been engaged in the business of buying and selling used buses on his own account and also as a broker and agent for others. He has business offices in New York City, Grand Rapids, Michigan, Mexico City, and Puerto Rico. He is one of the largest, if not the largest, used bus dealers in the United States. For the past five years his company has handled an average of about 290 city-type and parlor-type buses a year. He advertises his

buses regularly in the trade magazines for the United States and for foreign and South American countries.

During the past several years he has personally handled the sales of the following numbers of city-type buses: 1946, 72 buses; 1947, 98 buses; 1948, 94 buses; 1949, 64 buses; 1950, 79 buses; 1951, 68 buses; 1952, 82 buses; 1953, 112 buses; and 1954, 86 buses.

He has sold three GMC-TDH-4507 buses, year 1948, to the Interstate Transit Corporation at Attleboro, Massachusetts, for \$10,200 each. In October of 1954 he sold ten 3609 buses for a total of \$73,000 which was \$7,500 per bus less a quantity discount from the \$75,000 of \$2,000. In September of 1954 he sold one 1948 3610 bus for \$8,900. For the past year and a half he has carried an unfilled order for 100 city-type buses, models 3610, 3609 and 3612. Exhibits 8 and 9 are copies of advertisements of Rhodes Bus and Equipment Co., Inc., requesting GMC 3610 and 3612 Diesels, the latest ad being published in the March 1955 issue of "Bus Transportation".

This witness of respondent stated that in making his appraisal he inspected some, but not all, of the buses. He investigated the maintenance and preventive maintenance program of the respondent and took into consideration the climate and the road conditions where the buses are operated. An operating witness for the respondent testified that although the maintenance staff had been reduced the standard of maintenance of the buses had not been lowered.

The witness for the Commission staff testified that during 1954 respondent cut its maintenance force from 31 to 21 men. He stated that in his opinion a crew of 21 is lower than the number necessary for a reasonably normal maintenance. For the year 1953

the respondent spent 4.95 cents per bus mile on maintenance. For the last six months of 1954 the cost for maintenance had been reduced 35 per cent to 3.2 cents per bus mile. For the year 1953 oil consumption on the fleet was 387 bus miles per quart, whereas for the second six months of 1954 the consumption was 241 bus miles per quart. The number of broken windows also indicates the lower level of maintenance presently being maintained.

In determining the value of the buses the Commission has fully considered all the evidence submitted by the various witnesses. The Commission cannot disregard the evidence relating to deferred maintenance and in arriving at the value of the buses has given weight to this evidence.

Physical-Property Other than
Real Estate and Buses

All parties are agreed that the physical property other than real estate and buses should be valued at \$195,486 which is the reproduction cost new less accrued depreciation figure testified to by the Commission staff witnesses.

Going Concern Value

Respondent is seeking to establish a going concern value of \$186,583 which is 15 per cent of the total value claimed for other physical property. Evidence was introduced by respondent through a consulting engineer in support of such an allowance for going concern value. This witness stated that going concern value represents two factors: (1) the additional value attributable to the properties by reason of their being part of an operating entity furnishing local transportation service in the public interest in Sacramento, and (2) the value of the "know how" which results from the building up of an organization to perform the service.

The consulting engineer who appeared as a witness for the petitioner conceded that in order to operate the physical properties as a bus system it was necessary for respondent to find and train employees, develop operating schedules, and carry on maintenance and repair programs. However, he stated that in his opinion no allowance for going concern value should be made because earnings were not in excess of normal. He pointed out that the Commission, in its interim decision establishing present fares for respondent, determined that the fares would produce net annual earnings of \$39,000 on an historical cost rate base of \$400,000 plus, or a rate of return of 9.6 per cent.

These earnings of \$39,000 related to the sum of \$946,826 which is the total appraisal for respondent's properties submitted by petitioner result in a rate of return of only 4.2 per cent.

Exhibits 17 and 18 show that since 1944 respondent has had an average annual net profit in excess of \$40,000 and an average operating ratio of approximately 96.73 per cent.

Counsel for respondent in his oral argument pointed out that the fact that this Commission determines the rate base upon a consideration of historical cost does not forever tie earnings to present physical properties. The present properties will in due time undoubtedly be replaced by other facilities, the reasonable cost of which will be reflected in an historical cost rate base.

Reference has been made in respondent's brief to Decision No. 11256, 22 C.R.C. 531, in the Petition of the City of Stockton, in which this Commission, at page 538, said:

"From the foregoing it appears that the Stockton system is not now in an especially prosperous condition. In fact, its prosperity depends on future rate increases, and hence, is, to some extent, a matter of speculation. Nevertheless the system has for many years paid operating expenses, and there has been, for many years,

"some return, in addition. We are satisfied, therefore, that it has some going-concern value."

The Commission is of the opinion that the transportation system here under consideration does have some going concern value but not as much as is claimed by respondent. In arriving at an allowance for going concern value and in determining the total just compensation, the Commission has fully considered the discussion by petitioner's witness of the eleven factors a potential buyer would consider in determining the price he would be willing to pay for the system. These factors were listed as follows: (1) character of territory served, (2) character of service, (3) attitude of patrons, (4) trend of traffic, (5) possibility of competition, (6) building up traffic, (7) economies in operation, (8) value of physical assets, (9) further investment required, (10) earnings and rates, and (11) attitude of regulatory body.

While not allowing any specific amount for going concern value as such, nevertheless in arriving at its determination of just compensation the Commission has made an allowance for the fact that the various items of physical property constitute a going concern.

Total Valuation

The following table is a recapitulation of the appraisals submitted by the various parties:

Property Appraisals			
Description of Property	City of Sacramento	Commission Witnesses*	Sacramento City Lines
Lands	\$ 228,800	\$ 234,800	\$ 241,600
Structures	24,700	93,850	178,400
Buses	497,840	497,840	628,400
Other Physical Property	195,486	195,486	195,486
Going Concern Value	-	-	186,583
Total	\$ 946,826	\$1,021,976	\$1,430,469

* The Commission witnesses appraised lands at market value and all other physical properties at reproduction cost new less depreciation.

Liability for Transportation
in Exchange for Tokens in
the Hands of the Public

The Supervising Transportation Engineer for the Commission testified that approximately \$9,000 to \$10,000 of transportation value is outstanding on an average day by reason of tokens being in the hands of the public, and he assumed that September 23, 1954, was an average day. In finding, in a single sum, the just compensation to be paid, the Commission will allow \$9,500 for this liability. The parties hereto may be able to agree upon a more accurate allowance for this liability as of the date of the actual transfer of the properties from the respondent to the petitioner.

FINDINGS

The City of Sacramento, a municipal corporation, having filed its petition, as amended, herein, the Commission having proceeded in accordance with the provisions of Division 1, Part 1, Chapter 8 of the Public Utilities Code to fix and determine the just compensation to be paid by the City of Sacramento to Sacramento City Lines, a California corporation, for the taking of the lands, property and rights described in the application, as amended, and in the opinion above, public hearings having been held, briefs having been filed, the matter having been submitted, and the Commission being fully apprised in the matter, the Commission makes the following finding:

IT IS HEREBY FOUND AS A FACT that the total just compensation as of September 23, 1954, to be paid by the City of Sacramento to Sacramento City Lines for the taking of the

lands, property and rights described in the application, as amended, and the opinion above is the sum of \$1,059,976.

Dated at San Francisco, California, this 28th day of June, 1955.

John E. Mitchell
President
Justus D. Casner
Ralph Lutzgerner
William J. Drake
W. H. Hardy
Commissioners