

ORIGINALDecision No. 51983

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CHARLES P. RHINARD)
 to sell the interest of Charles P.)
 Rhinard, and)
 S. P. CARR,)
 SIDNEY L. CARR)
 and DELBERT R. CARR)
 to purchase the interest of Charles)
 P. Rhinard in an automotive passenger)
 line operated between Santa Ana and)
 Laguna Beach.)
 -----)

Application
 No. 37055
 (and Amendment)

OPINION

In this application, as amended, the Commission is asked to make an order, or orders, authorizing Charles P. Rhinard to sell an undivided one-half interest in the operative rights and properties of the Laguna Beach-Santa Ana Stage Lines to S. P. Carr, Sidney L. Carr and Delbert R. Carr, and authorizing the execution of a deed of trust and a mortgage of chattels and the issue of two notes, one in the principal amount of \$25,000 and the other in the principal amount of \$15,000.

The application shows that Charles P. Rhinard and S. P. Carr, as equal partners, are engaged in the operation of the Laguna Beach-Santa Ana Stage Lines for the transportation of passengers between those two cities. In financial statements filed with the Commission, the carrier's results of operation have been reported as follows:

	<u>1952</u>	<u>1953</u>	<u>1954</u>
Revenues	<u>\$91,927</u>	<u>\$95,302</u>	<u>\$90,692</u>
Expenses -			
Operations and maintenance	80,977	85,159	84,198
Depreciation	7,037	4,226	3,251
Taxes and licenses	<u>9,048</u>	<u>9,397</u>	<u>10,182</u>
Total expenses	<u>97,062</u>	<u>98,782</u>	<u>97,631</u>
Net operating profit	<u>\$(5,135)</u>	<u>\$(3,480)</u>	<u>\$(6,939)</u>

An analysis of the statements indicates that the operators have charged up to expense the sum of \$10,400 of owners' salaries in 1952, \$10,200 in 1953, and \$10,600 in 1954.

The properties of the partnership include operative rights acquired under authorization heretofore granted by the Commission,^{1/} certain real property and improvements, seven buses and miscellaneous office and garage equipment, materials, parts and supplies. A summary statement of the recorded investment in operative rights, property and equipment and the related depreciation reserve which has been accumulated, is as follows:

	<u>Cost</u>	<u>Depreciation Reserve</u>	<u>Balance</u>
Land	\$ 2,000	\$ -	\$2,000
Structures	12,453	8,237	4,216
Revenue equipment	68,898	68,898	-
Other equipment	2,159	1,720	439
Organization, franchises, permits	<u>2,000</u>	<u>-</u>	<u>2,000</u>
Totals	<u>\$87,510</u>	<u>\$78,855</u>	<u>\$8,655</u>

The carrier's 1954 year-end balance sheet is reported, in summary form, as follows:

Assets

Current assets -		
Cash	\$3,820	
Materials and supplies	<u>4,046</u>	
Total current assets		\$ 7,866
Net investment in property		<u>8,655</u>
	Total	<u>\$16,521</u>

Liabilities and Capital

Current liabilities		\$ 3,084
Proprietorship capital		<u>13,437</u>
	Total	<u>\$16,521</u>

It is reported that applicant Rainard has extensive interests in ranch properties, that he desires to retire from the operation of the stage line and to devote his time to his other

^{1/}
Decision No. 36177, dated Feb. 16, 1943, in Application No. 25445
Decision No. 37346, dated Sep. 26, 1944, in Application No. 26122
Decision No. 38960, dated May 14, 1946, in Application No. 27318
Decision No. 42593, dated Mar. 8, 1949, in Application No. 30010
Decision No. 43419, dated Oct. 18, 1949, in Application No. 30649

interests, and that he has agreed to sell his partnership interest in the operative rights and equipment to S. P. Carr, Sidney L. Carr and Delbert R. Carr for the sum of \$30,000 and his partnership interest in the real property for the sum of \$15,000, the total consideration for his interest being \$45,000.

In financing the purchase price, it appears that S. P. Carr has put up \$5,000 in cash and has made arrangements for the issue of a note to Charles P. Rhinard in the principal amount of \$15,000 secured by a mortgage of chattels, and for the issue of a note to Minnie M. Wild in the principal amount of \$25,000 secured by a deed of trust on the real property and improvements. The \$15,000 note will be payable in annual installments of \$3,600 or more, with interest at the rate of 5% per annum, and the \$25,000 note will be payable in monthly installments of \$250, with interest at the rate of 6% per annum.

The staff of the Commission has made an examination of the carrier's records and has interviewed the parties to the transaction. It appears that this is a case of a willing seller and willing buyers and that the buyers are familiar with the operations and are aware of the unfavorable results of operations in the past, and that they are willing to pay \$45,000 for a partnership interest having a reported book value of approximately \$6,700. It appears that the purchase is predicated, in part, on market values of the real property and improvements and also of the operative equipment. In this connection, it is noted that applicant S. P. Carr has been able to arrange a loan of \$25,000 on the real estate holdings and that revenue equipment now in use is carried on the books at no value.

In our opinion, if the transferees are willing to pay more than the reported book costs they may do so, provided that the terms

of the transaction will not be so burdensome as to impair the utility service and thereby adversely affect the public. The investigation in this proceeding shows that the transferees have been willing to invest additional cash in the business, that they have undertaken to curtail the payment of owners' salaries, that future economies will be effected through the disposal of the present real property and improvements which are operative only in part, and the removal to less expensively situated premises. The application further shows that S. P. Carr, who has been a half owner in the business and will own a substantial part of the new partnership, will continue the services presently rendered and that the number of units of equipment to be employed by the new partnership will be the same as are now used.

Under the circumstances, we are of the opinion, and so find, that the transaction will not be adverse to the public interest. We hereby place applicants on 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 properties herein authorized to be transferred nor as binding the Commission to recognize the agreed purchase price or the values on which the sum is predicated as bases for orders fixing rates or authorizing the issue of securities.

In recording the transaction on its books, the new partnership shall enter in its property and depreciation reserve accounts the amounts reflected on the books of the present partnership as of the date the transaction is consummated and shall enter in Account 155, Other Intangible Property, any portion of the cost of acquisition not includible in such property and reserve accounts.

ORDER

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 the notes herein authorized is reasonably required for the purpose specified herein, and that such purpose, except as otherwise authorized, is not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. Charles P. Rhinard may transfer to S. P. Carr, Sidney L. Carr and Delbert R. Carr his partnership interest in the Laguna Beach-Santa Ana Stage Lines, in accordance with the terms set forth in this application, as amended.
2. S. P. Carr may execute a deed of trust and a mortgage of chattels and may issue a promissory note in the principal amount of \$15,000 and a promissory note in the principal amount of \$25,000 for the purpose set forth in this application, as amended, which deed of trust and mortgage of chattels and notes shall be in, or substantially in, the same form as those filed with the Commission in this proceeding.

3. 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 Charles P. Rhinard and S. P. Carr, as partners, have withdrawn or canceled and that S. P. Carr, Sidney L. Carr and Delbert R. Carr have adopted or established, as their own, said rates, rules, regulations and schedules.

4. S. P. Carr, Sidney L. Carr and Delbert R. Carr shall file with the Commission monthly reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order. They shall file also a copy of each journal entry used to record on their books the acquisition of the rights, property and equipment under the authorization herein granted, such filing to be made within 30 days after the date of such acquisition.

5. The authority herein granted will become effective when applicants have paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$40.

Dated at San Francisco, California, this 27th day of September, 1955.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners

