

Decision No. 55326**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 GLEN SCHOLL and ORLINA C. RYAN, dba)
 MARIPOSA EXPRESS, for a transfer to)
 them of the certificate of public)
 convenience and necessity as a high-)
 way common carrier previously issued)
 to GLEN SCHOLL AND STEPHEN RYAN,)
 deceased husband of ORLINA C. RYAN.)

Application No. 39095

O P I N I O N

By this application Glen Scholl and Orlina C. Ryan, doing business as Mariposa Express, seek authority for a transfer to them of the certificate of public convenience and necessity as a highway common carrier previously issued to Glen Scholl and Stephen Ryan, deceased husband of applicant Orlina C. Ryan. It is stated that Stephen Ryan died on September 15, 1955, and that prior to his death he and applicant Scholl operated the Mariposa Express as a copartnership, between Merced and Midpines, California, under authorization of Decisions Nos. 40250 and 50018, dated May 6, 1947, and May 11, 1954, respectively.

In the decree of distribution by the Superior Court of the State of California in Merced County, entered December 17, 1956, the interest of the decedent, Stephen Ryan, in the partnership was distributed to his surviving widow, the applicant Orlina C. Ryan. Prior to the decree of distribution, in October, 1955, the applicants executed a partnership agreement for the operation of said Mariposa Express and pursuant to said agreement, have operated said business up to the present time. This partnership also possesses a highway contract carrier permit issued by this Commission.

The new partnership appears to be in a sound financial
1/ condition.

The Commission having considered the above-entitled application and being of the opinion that a public hearing is not necessary, that the proposed transfer of the aforementioned operative rights will not be adverse to the public interest, the application will be granted. Because the applicants possess a highway contract carrier permit, attention is directed to the provisions of Public Utilities Code Section 3542 which provides:

"3542. No person or corporation shall engage or be permitted by the Commission to engage in the transportation of property on any public highway, both as a common carrier and as a highway contract carrier of the same commodities between the same points."

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

The applicants are hereby placed 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 holders a full or partial monopoly of a class of business. 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.

1/ Exhibits "B" and "C".

O R D E R

An application therefor having been filed, the Commission being fully informed therein, and it having been found that public convenience and necessity so require,

IT IS ORDERED:

(1) That the certificate of public convenience and necessity as a highway common carrier previously issued to Glen Scholl and Stephen Ryan, doing business as Mariposa Express, is hereby transferred to Glen Scholl and Orlina C. Ryan, a copartnership, doing business as Mariposa Express. Glen Scholl and Orlina C. Ryan may acquire and thereafter operate said operating rights in accordance with the terms and conditions of the partnership agreement dated October 10, 1955.

(2) That effective concurrently with the consummation of such transfer, and on not less than five days' notice to the Commission and to the public, Glen Scholl and Orlina C. Ryan shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that Glen Scholl and Stephen Ryan, as partners, have ceased to operate, and Glen Scholl and Orlina C. Ryan have adopted or established as their own, said rates, rules and regulations.

(3) That by acquiring the certificate of public convenience and necessity herein granted, Glen Scholl and Orlina C. Ryan are placed on notice that they will be required, among other things, to file annual reports of their operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time

as the Commission may direct, or to comply with and observe the provisions of General Order No. 99 may result in a cancellation of the operating authority, the transfer of which is permitted by this decision.

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

Dated at Los Angeles, California, this 30th day of July, 1957.

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