

Decision No. 58153

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

RAY WITHERS and ANDREW BYRD, a
copartnership doing business
under the firm name and style of

SAN MATEO-BURLINGAME TRANSIT

and

SAN MATEO-BURLINGAME TRANSIT COMPANY,

for Authority to Transfer Operating
Rights and Certain Assets; for
Permit to Issue Stock.

Application No. 40674
(and Amendment)

O P I N I O N

In this application, as amended, the Commission is asked to enter its order (1) authorizing Ray Withers and Andrew Byrd, copartners doing business as San Mateo-Burlingame Transit, to transfer operative rights and assets to San Mateo-Burlingame Transit Company, a corporation, and (2) authorizing said corporation to issue 700 shares of common stock of the par value of \$100 each and of the aggregate par value of \$70,000.

Applicants Withers and Byrd are engaged in operating a passenger stage line between the Cities of Burlingame, San Mateo, Hillsborough and Belmont and between the City of San Mateo and the City of Hayward, pursuant to authorization granted by the Commission by Decision No. 54898, dated April 22, 1957, as amended, Decision No. 56321, dated March 3, 1958, and Decision No. 58098, dated March 10, 1959. They have reported gross revenues from operations

at \$229,985 in 1957, with net profit of \$389, and gross revenues of \$218,555 for the first ten months of 1958, with net profit of \$540, after deducting depreciation and interest in each of the two periods.

It appears that the partners now desire to incorporate, that they have organized San Mateo-Burlingame Transit Company and that they propose to transfer to it their operative rights and assets in exchange for \$70,000 par value of stock. In presenting this matter to the Commission applicants have submitted a balance sheet showing assets, liabilities and capital as of October 31, 1958, as follows:

<u>Assets</u>	
Current and prepaid assets	\$ 35,734
Tangible properties (at appraised values)	84,633
Intangible properties	<u>660</u>
Total	<u>\$121,027</u>
<u>Liabilities and Capital</u>	
Current liabilities	\$ 31,512
Long-term debt	16,425
Partnership equity	<u>73,090</u>
Total	<u>\$121,027</u>

It is reported that the transfer of the operations to the corporation will result in no changes in the rates, timetables and equipment.

The staff has made an examination of applicants' records and reports that the book values of the tangible properties to be transferred amount to \$81,715, and the accumulated depreciation reserves to \$53,198, leaving net book values of \$28,517, and that the \$84,633 item, which appears in the balance sheet, reflects appraised values of the tangible assets.

There is nothing in the application to support the appraised values of \$84,633 and we are unable to accept such values as the proper base for an order authorizing the issue of stock. In our opinion, the new corporation should set up in its tangible property and reserve accounts the figures which appear on the partnership books at the date of transfer.

The use of the book figures in place of the appraised values would result in a balance of approximately \$17,000, instead of \$73,090, as representative of the partnership equity in the properties to be transferred. We are of the opinion, therefore, that \$17,000 would be the amount of stock we can authorize in this proceeding, on the basis of the information now before us.

Accordingly, we will enter an order authorizing the transfer of the operative rights and assets and the issue of \$17,000 par value of stock. Applicants are 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 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.

O 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 proposed transfer will not be adverse to the public interest, that the money, property or labor to be procured or paid for by the issue of the \$17,000 of stock is reasonably required for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Ray Withers and Andrew Byrd, copartners doing business as San Mateo-Burlingame Transit, may transfer their operative rights and assets to San Mateo-Burlingame Transit Company.

2. San Mateo-Burlingame Transit Company, in acquiring such operative rights and assets, may assume the payment of outstanding debts and may issue not to exceed \$17,000 par value of its common stock.

3. The application insofar as it involves the issue of the remaining \$53,000 par value of stock hereby is denied.

4. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall supplement or reissue the tariffs and timetables on file with the Commission naming rates, rules, regulations and schedules governing the common carrier operations here involved to show that Ray Withers and Andrew Byrd, doing business as San Mateo-Burlingame Transit, have withdrawn or canceled

and San Mateo-Burlingame Transit Company, a corporation, has adopted or established, as its own, said rates, rules, regulations and schedules. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 79.

5. San Mateo-Burlingame Transit Company, a corporation, 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 effective date of this order shall be 20 days after the date hereof.

Dated at San Francisco, California, this 24th day of March, 1959.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners