

Decision No. 59482

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of D. W. BOYLES and J. R. BRITTON, a partnership, doing business as AIRPORT COACH SERVICE, for authority to sell their Certificate of Public Convenience and Necessity to operate Limousine Service as a Highway Common Carrier of Passengers, Baggage, Express, Newspapers and Mail between Santa Ana, Anaheim, Fullerton and Buena Park, California and the Los Angeles Municipal (International) Airport, Inglewood, California, as issued under Decision No. 55327, as amended by Decision No. 56546 and 57798, to AIRPORT COACH SERVICE, and for Authorization of AIRPORT COACH SERVICE, a corporation to Issue Its Securities

Application No. 41719

O P I N I O N

This is an application for an order of the Commission (1) authorizing D. W. Boyles and J. R. Britton, a partnership, doing business as Airport Coach Service, to sell and transfer their operative rights, equipment and other assets to Airport Coach Service, a corporation, and (2) authorizing Airport Coach Service, a corporation, to issue \$46,000 par value of its capital stock in exchange for said assets and to assume payment of liabilities.

D. W. Boyles and J. R. Britton are engaged in the transportation of passengers, their baggage and express between Santa Ana, Disneyland, Anaheim, Fullerton, and Buena Park, on the one hand, and the Los Angeles International Airport, on the other

hand, over specified routes, subject to certain restrictions, as defined in a certificate of public convenience and necessity granted by Decision No. 55327, dated July 30, 1957, as amended by Decision No. 56546, dated April 15, 1958 and Decision No. 57798, dated December 30, 1958. A statement of their net assets, prepared from data filed in Exhibit G, as of October 1, 1959, is as follows:

Net current and prepaid assets	\$12,007
Equipment - less contracts payable	11,893
Franchise at cost	<u>100</u>
Total net worth	<u>\$24,000</u>

In connection with the request of the corporation to issue \$46,000 par value of stock, it appears that the reported net worth of \$24,000 does not give any consideration to goodwill nor to value of the franchise, other than its cost, nor to the actual present value of the tangible equipment, which originally cost \$34,067 but which is carried on the books at a depreciated value of \$21,496.

However, under the provisions of Section 820 of the Public Utilities Code, the Commission has no power to permit the capitalization of operative rights in excess of the amount actually paid to the state or to a political subdivision thereof as the consideration for the grant of such operative rights. Further, we are of the opinion that the issue of stock in payment for goodwill is not one of the purposes contemplated by Section 817 of the Public Utilities Code. Moreover, no information has been submitted to the Commission with respect to the claimed values for

the tangible properties, and it does not appear that there is sufficient information now before us upon which we can base an order authorizing the issue of \$46,000 of stock.

We find that the transfer of the operations and properties to the new corporation will not be adverse to the public interest; but upon a full review of this proceeding we are of the opinion that the maximum amount of stock we can authorize is \$24,000 par value. The order herein will so provide.

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 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, equipment, and other assets 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 money, property or labor to be procured or paid for by the issue of \$24,000 par value of stock herein authorized is reasonably required by applicant corporation for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; NOW THEREFORE,

IT IS HEREBY ORDERED as follows:

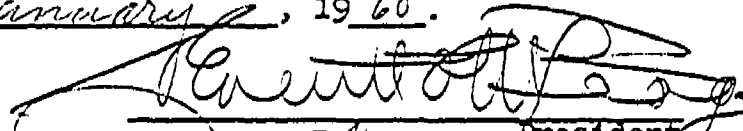

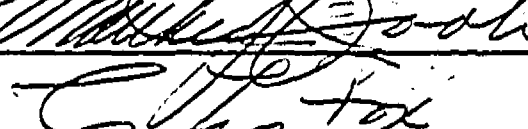
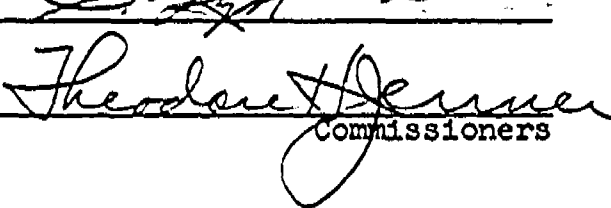
1. D. W. Boyles and J. R. Britton may sell and transfer their operative rights, equipment, and other assets on or before March 31, 1960, to Airport Coach Service, a corporation.
2. Airport Coach Service, a corporation, in payment for said operative rights, equipment, and other assets may assume the payment of outstanding liabilities and may issue not to exceed \$24,000 par value of its capital stock on or before March 31, 1960.
3. This application, insofar as it involves the issue of an additional \$22,000 par value of stock, 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 on file with the Commission naming rates, rules, and regulations governing the common carrier operations here involved to show that D. W. Boyles and J. R. Britton have withdrawn or canceled and Airport Coach Service, a corporation, has adopted or established, as its own, said rates, rules, and regulations. 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. Airport Coach Service, 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 authorization herein granted will become effective on the date hereof.

Dated at San Francisco, California,  
this 12<sup>th</sup> day of January, 1960.

  
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President  
  
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Commissioners