

ORIGINALDecision No. 69110

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of BAY RAPID TRANSIT COMPANY to:)
(a) redeem shares of its capital)
stock from Joseph S. Miller and)
Helen C. Tucker in exchange for)
corporate assets; (b) issue a)
promissory note; (c) enter into)
a lease of real property.)

Application No. 47549
Filed May 3, 1965

O P I N I O N

This is an application for an order of the Commission authorizing Bay Rapid Transit Company (1) to redeem 900 shares of its capital stock in exchange for certain assets, (2) to enter into a lease of real property and (3) to issue a \$10,000 note.

Applicant is a California passenger stage corporation engaged in transporting passengers, baggage and express in portions of Monterey County. In addition, it conducts sight-seeing operations and operates also as a charter-party carrier of passengers. For the year 1964, the company reports operating revenues amounting to \$217,242 and a net income of \$3,565 after deducting depreciation expense of \$14,669. A summary of its assets and liabilities at December 31, 1964, as reported to this Commission, is as follows:

Assets

Current assets	\$ 28,511
Carrier operating property, less reserve for depreciation	154,247
Intangible property	34,720
Investments and advances	<u>26,322</u>
Total	<u>\$243,800</u>

Liabilities

Current liabilities	\$ 24,441
Long-term obligations	63,100
Common capital stock	40,000
Unappropriated surplus	<u>116,259</u>
Total	<u>\$243,800</u>

The \$40,000 aggregate par value of outstanding common capital stock is represented by 1,600 shares of the par value of \$25 each. The application shows that Helen C. Tucker and Joseph S. Miller hold 1,060 shares and 540 shares, respectively, and that they have agreed to exchange 900 of the shares for certain of applicant's assets and to sell the remaining 700 shares to Randall L. Ward.

In redempting 900 shares of its common capital stock, applicant proposes to exchange certain nonutility property, together with terminal and garage real property to be leased back in accordance with the provisions of a five-year lease providing for the payment of rent at the rate of \$640 per month, subject to additional rent to reflect increases in real property taxes. Said lease may be continued for an additional term of five years at the option of applicant for a monthly rental to be agreed upon at such time as the

option may be exercised. The present stockholders will assume payment of the obligation represented by a \$36,000 note in favor of Crocker-Citizens National Bank and deed of trust pertaining to said real property, which note is repayable in monthly installments of \$400, including principal and interest at the rate of 6% per annum, and had an outstanding balance of \$30,604.84 at December 31, 1964. Said documents were issued and executed pursuant to authority granted by Decision No. 64128, dated August 21, 1962, in Application No. 44669.

Exhibit A, attached to the application, shows that applicant is a party to a contract with Standard Oil Company of California covering a gasoline tank, pump and hoist, which requires the utility to make payments of \$160.88 per month for a period of 60 months commencing with November, 1962. It appears that the original amount of said contract was \$9,652.80, of which applicant owed \$5,469.92 as of December 31, 1964. Applicant's present stockholders have agreed to assume said contract, to make the payments thereunder and to permit said equipment (a) to remain on the property to be leased back to applicant and (b) to be used by the public utility. Applicant agrees that said pump, tank and hoist shall be considered to be a part of the real property on which they are located. Although the unauthorized long-term evidence of indebtedness appears to be void under Section 825 of the Public Utilities Code, the assumption of the obligation by the stockholders would render moot the question of its validity insofar as this Commission is concerned.

Applicant reports that it is indebted to Helen C. Tucker in the amount of \$10,000 represented by demand 6% promissory notes, which it proposes to replace by a 6% note due May 1, 1970, with only the interest payable annually. It appears that the company applied the \$10,000 toward financing, in part, the purchase of two buses.

A pro forma December 31, 1964 balance sheet of applicant, giving effect to the transactions proposed in this proceeding as obtained from Exhibit B attached to the application, is as follows:

<u>Assets</u>	
Current assets	\$ 28,511
Carrier operating property, less estimated depreciation	72,080
Intangible property	<u>34,720</u>
Total	<u>\$135,311</u>
<u>Liabilities</u>	
Current liabilities	\$ 9,464
Long-term obligations	42,002
Common capital stock	17,500
Unappropriated surplus	<u>66,345</u>
Total	<u>\$135,311</u>

According to the application, (a) the transactions will result in centralized management of the public utility with a single stockholder responsibility which will simplify corporate action; (b) the real property to be transferred will be leased back for a reasonable rental; and (c) the issuance of the proposed five-year note will enable applicant

to retain capital for use in the operation of its business, which capital would not be available to it if used to redeem the demand obligation.

The Commission has considered this application and finds that: (1) no authority is required from this Commission for applicant (a) to redeem outstanding capital stock nor (b) to lease back property; (2) the proposed exchange and transfer of property would not be adverse to the public interest; (3) the proposed note issue is for a proper purpose; (4) the money, property or labor to be procured or paid for by the issue of the note herein authorized is reasonably required for the purpose specified herein; and (5) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude that the application should be (1) dismissed for want of jurisdiction insofar as it seeks authority to redeem stock and to lease back property, and (2) granted in all other respects. A public hearing is not necessary. The authorization herein granted shall not be construed as a finding of the value of the properties herein authorized to be exchanged and transferred.

O R D E R

IT IS ORDERED that:

1. Bay Rapid Transit Company, on or after the effective date hereof and on or before September 30, 1965, may exchange and transfer properties as contemplated by that certain Agreement, a copy of which is filed in this proceeding as Exhibit A.
2. Bay Rapid Transit Company, on or after the effective date hereof and on or before September 30, 1965, for the purpose specified in the application, may issue a promissory note in the principal amount of not to exceed \$10,000, which note shall be in the same form, or substantially in the same form, as that filed in this proceeding as Exhibit C.
3. Bay Rapid Transit Company shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.
4. This application, insofar as it seeks authority to redeem stock and to lease back property, is dismissed.

5. This order shall become effective when Bay Rapid Transit Company has paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.

Dated at San Francisco, California,
this 25th day of MAY, 1965.

Arthur E. Mitchell President
George T. Hoover
Angus
 Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

Commissioner Frederick B. Holoboff, being necessarily absent, did not participate in the disposition of this proceeding.

PUBLIC UTILITIES COMMISSION
 STATE OF CALIFORNIA
 PAID
 MAY 26 1965
 By *[Signature]*