

ORIGINALDecision No. 69236

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of
 BIRCH A. OBER, an individual, doing
 business as TAHOE TRANSIT LINES, to
 sell, and PHILIP C. LUPO, an
 individual, to buy, certificate of
 public convenience and necessity
 authorizing the transportation of
 passengers between points on the
 South Shore of Lake Tahoe.

Application No. 47562
 (Filed May 7, 1965)

O P I N I O N

Birch A. Ober seeks to sell to Philip C. Lupo a passenger stage certificate and property known as Tahoe Transit Lines, operating generally between Camp Richardson and State Line. The certificate was granted to Ober by Decision No. 66025 dated September 17, 1963, in Application No. 45769. One 1947 Chevrolet bus of 30-passenger capacity is to be included in the sale.

Ober, the seller, is a service station operator. He wants to sell because his present agreement requires that the station be operated 24 hours per day, seven days a week thereby requiring his full time.

Lupo, the buyer, is agent for Greyhound Lines, Inc. at Al Tahoe, which is on the route. A personal balance sheet attached to the application reveals a net worth of \$36,100. Lupo will provide terminal facilities at the Greyhound station which is alleged to belong to Lupo and to be rented to Greyhound Lines.

The consideration is to be \$4,000 payable in cash, the last installment of \$1,500 being due on receipt of authorization from this Commission.

Upon acquisition of Ober's operating right Lupo plans to add new equipment and expand the service.

It appears that the proposed transaction is in the public interest and should be authorized.

Philip C. Lupo is 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. For clarification the operating authority will be revoked and a new certificate will be issued in the name of the transferee. A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1965, Birch A. Ober may sell and transfer, and Philip C. Lupo may purchase and acquire, the operative

rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Philip C. Lupo shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

3. Applicants shall amend or reissue the tariffs and timetables on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein to show that Birch A. Ober has withdrawn or canceled, and Philip C. Lupo has adopted or established, as his own, said rates, rules and regulations. The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the consummation of the transfer herein authorized. The tariff and timetable filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of the tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98.

4. Concurrent with the effective date of the tariff filings required by ordering paragraph 3 hereof, the operating authority granted by Decision No. 66025 is hereby revoked and in the place and stead thereof a certificate of public convenience and necessity is hereby granted to Philip C. Lupo, doing business as Tahoe Transit Lines, authorizing him to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes more particularly set forth in Appendix A attached hereto.

5. On or before the end of the third month after the consummation of the transfer as herein authorized, Philip C. Lupo shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current fiscal year to and including the effective date of the transfer.

The effective date of this order shall be ten days after the date hereof.

Dated at San Francisco, California, this 15th day of JUNE, 1965.

Frederick B. Heloboff
President
George H. Hoover
William W. Kellum
Commissioners

By the certificate of public convenience and necessity granted in the decision noted in the margin, Philip C. Lupo is authorized to transport passengers between Camp Richardson and State Line, serving all intermediate points on, along, and within one mile laterally of the following routes:

- (a) California Highway 89 between Camp Richardson and The Wye situated at the junction of said California Highway 89 and U. S. Highway 50.
- (b) U. S. Highway 50 between a point two miles south of The Wye and State Line including service to the Greyhound Depot on Ski Run Boulevard and Tahoe Avenue.

Issued by California Public Utilities Commission.

Decision No. 69236, Application No. 47562.