

ORIGINAL

Decision No. 78195

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of JOHN J. HABR and RALPH C.)
HARMONY for an order authorizing)
the transfer of operating rights)
and properties as a passenger)
stage company between the Cities)
of San Jose, Campbell, Cupertino,)
Sunnyvale, Santa Clara and)
Milpitas, on the one hand, and)
the Maintenance Base located at)
International Airport, San)
Francisco, on the other hand, in)
the State of California to)
JOHN J. HABR and LOIS J. HABR.)

Application No. 52330
(Filed November 27, 1970)

O P I N I O N

John J. Habr and Ralph C. Harmony, copartners doing business as West Valley Charter Lines, request authority to sell and transfer, and John J. Habr and Lois J. Habr request authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a passenger stage corporation and other specified properties.

The certificate was granted by Decision No. 74413, dated July 16, 1968, in Application No. 50273 and authorizes the transportation of passengers between the United Air Lines Maintenance Base located at the San Francisco International Airport, on the one hand, and the Cities of San Jose, Campbell, Cupertino, Sunnyvale, Santa Clara and Milpitas, on the other hand. The transfer includes all equipment and assets of the business as well as real property located at 240 Cristich Lane, Campbell. The agreed consideration is \$75,000, which includes a value of \$10,000 for a covenant not to compete, a

value of \$15,000 for good will and a value of \$50,000 for buildings, equipment and land. The consideration is to be paid as follows: \$15,000 upon execution of the agreement; \$10,000 to be paid on or before April 9, 1971; and the balance of \$50,000 to be secured by a promissory note payable over a period of 10 years in monthly installments of \$635, with interest at the rate of 9 percent per annum on the unpaid balance. As of October 17, 1970, applicant purchasers indicated a net worth in the amount of \$49,232.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and that the property to be procured or paid for by the issue of the indebtedness herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by John J. Habr and Ralph C. Harmony and the issuance of a certificate in appendix form to John J. Habr and Lois J. Habr.

John J. Habr and Lois J. Habr 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, 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.

O R D E R

IT IS ORDERED that:

1. On or before May 1, 1971, John J. Habr and Ralph C. Harmony may sell and transfer, and John J. Habr and Lois J. Habr 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, purchasers 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. Purchasers shall amend or reissue the tariffs and timetables on file with the Commission, naming rates and rules governing the common carrier operations herein to show that they have adopted or established, as their own, said rates and rules. 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 tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98-A. Failure to comply with and observe the provisions of

General Orders Nos. 79 and 98-A may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, purchasers 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 sellers for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to John J. Habr and Lois J. Habr, authorizing them to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 74413, which certificate is revoked effective concurrently with the effective date of the tariff and timetable filings required by paragraph 3 hereof.

7. Within thirty days after the transfer herein authorized is consummated, purchasers shall file a written acceptance of the certificate herein granted. Purchasers are placed on notice that, if they accept the certificate of public convenience and necessity herein granted, they will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-A and insurance requirements of the Commission's General Order No. 101-C.

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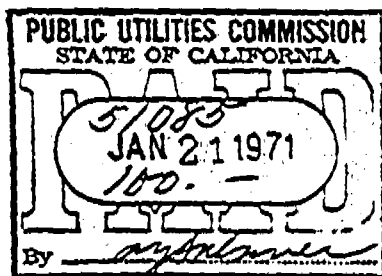
8. Purchasers shall maintain their accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

9. After the effective date hereof, John J. Habr and Lois J. Habr may execute a promissory note in the amount of \$50,000.

10. The authority herein granted to issue a note will become effective when purchasers have paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$100.

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

Dated at San Francisco, California, this 19th day of JANUARY, 1971.



Chairman
William Spiesous - Jr.
[Signature]
[Signature]

Commissioners

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS.

John J. Habr and Lois J. Habr, doing business as West Valley Charter Lines, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to transport passengers on passenger-carrying vehicles between the Air Lines Maintenance Base at or near the San Francisco International Airport, on the one hand, and the cities of Campbell, San Jose, Santa Clara, Cupertino, Sunnyvale and Milpitas, on the one hand, over the routes hereinafter described, subject to the following provision:

No passengers shall be transported except those having point of origin or destination at said Air Lines Maintenance Base.

SECTION 2. ROUTE DESCRIPTION.

Commencing at any points within the cities of Campbell, San Jose, Santa Clara, Cupertino, Sunnyvale or Milpitas, thence to the Air Lines Maintenance Base at or near the San Francisco International Airport, via any and all appropriate routes, and return via the same routing.

Issued by California Public Utilities Commission.

Decision No. 78195, Application No. 52330.