

ORIGINAL

Decision No. 78598

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of  
 ROLLY HARPER, INC., to transfer, and  
 of AMERICAN CHARTER INC., to acquire,  
 a Class "A" certificate to operate as  
 a charter-party carrier of passengers.

) Application No. 52466  
 (Filed December 18, 1970)

Leonard N. Amato, Attorney at Law, for American  
 Charter Inc., and Wendell B. Will, Attorney at  
 Law, for Rolly Harper, Inc., applicants.  
James H. Lyons, Attorney at Law, for Cal Coast  
 Charter, Inc., and Channel Islands Bus System,  
 Inc., protestants.  
John L. Hughes, for Gray Line Tours Company,  
 interested party.  
William H. Well, for the Commission staff.

O P I N I O N

Rolly Harper, Inc. requests authority to sell and transfer,  
 and American Charter Inc. requests authority to purchase and acquire,  
 a Class "A" charter-party certificate for a cash consideration of  
 \$5,500.

Because of protests filed by Cal Coast Charter, Inc. and  
 Channel Islands Bus System a public hearing was held before Examiner  
 Daly on March 29, 1971, at Los Angeles, at which time and place the  
 matter was submitted.

The protests are predicated upon two grounds, i.e. (1) aban-  
 donment of the certificate by applicant seller and (2) prior charter  
 operations conducted by applicant purchaser without first having  
 obtained a certificate.

In response to subpoenas, issued at the request of protestants, applicants produced records relating to their past operations. The records of applicant seller, who is primarily engaged in the equipment rental business, indicate that it conducted three charter services during the period March 1, 1970, to and including the date of hearing. The records of applicant purchaser indicate a number of charter services rendered in the past several months, the majority of which were conducted for the California Lutheran College, which is located in Thousand Oaks, California.

The record discloses that the president of applicant purchaser, Don H. Lee, is a 1967 graduate of the California Lutheran College; that upon graduation Mr. Lee inaugurated a children's summer camp in the vicinity of Thousand Oaks; that as an incident of the total cost of the summer camp program Mr. Lee provided a daily bus transportation service for the children between their homes and the summer camp; that in 1970, Mr. Lee prepared a bus transportation plan for the City of Thousand Oaks and upon the approval of the plan by the City, thereupon caused the incorporation of applicant and, on December 14, 1970, commenced providing bus service within the limits of said City; that Mr. Lee has taken an active part in the athletic program of California Lutheran College and in the past several months has transported the basketball and baseball teams to and from many of their games; that other services were provided for organizations such as members of the local Lutheran Church and the Newberry Park Boosters Club, an organization consisting of parents of students attending a local high school, who were transported to and from an out-of-town high school game; that such services were always provided on a cost basis and in many instances at a loss,

because Mr. Lee was of the opinion that he could lawfully provide such services upon the condition that they were performed without profit; that a petition signed by approximately 800 individuals endorsed the qualifications of applicant purchaser and urged approval of the transfer; that protestants are presently conducting operations as charter-party carriers; and that between them they operate 65 buses.

After consideration the Commission finds that:

1. Although applicant seller did not conduct extensive operations under its charter-party certificate it held its services out to the public and on three occasions since March 1970 performed service pursuant to said certificate.

2. Applicant seller did not abandon its charter-party certificate.

3. Applicant purchaser has provided charter operations within the past several months, primarily for the California Lutheran College, under the misapprehension that such service could be lawfully performed without a charter-party certificate if done so without profit.

4. Applicant purchaser has the necessary equipment, experience and financial ability to conduct operations as a charter-party carrier.

5. Applicant purchaser is a fit and proper person and the proposed transfer would not be adverse to the public interest.

6. Applicant purchaser has on file with the Commission evidence that the California Highway Patrol has recently checked its equipment and found it to be in safe operating condition.

7. Applicant purchaser has on file with the Commission evidence that it presently has in effect adequate public liability insurance.

The Commission therefore concludes that the application for transfer should be granted.

O R D E R

IT IS ORDERED that:

1. The proposed transfer of the operating authority herein considered from Rolly Harper, Inc. to American Charter Inc. is hereby authorized and the Secretary of the Commission is hereby directed to issue to American Charter Inc. Class "A" charter-party certificate No. TCP-175-A.

2. Within ten days after the effective date of this order, applicants shall file with the Commission a true copy of the bill of sale or any other instrument of transfer which may be executed to effect said transfer.

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

Dated at San Francisco, California, this 20<sup>th</sup> day of APRIL, 1971.

Chairman  
William J. Quinn  
Secretary  
James L. Sturgeon  
Commissioners