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Decision No. 89216 AUG 8 1978

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
BUS, INC.)
for authority to control VACA VALLEY)
BUS LINES, INC.)

Application No. 57977
(Filed April 7, 1978)

O P I N I O N

In this application Bus, Inc. (Bus) requests authority to control Vaca Valley Bus Line, Inc. (VVBL) and the latter seeks authorization to encumber its operating rights and properties and to execute an evidence of indebtedness.

VVBL, a California corporation, conducts business as a passenger stage corporation pursuant to a certificate of public convenience and necessity granted by Decision No. 87795, dated August 30, 1977 in Application No. 57395. The decision authorizes operations over specified routes between Fairfield, Travis Air Force Base, Suisun, Vacaville and Parks Air Force Base. Service is also authorized over unspecified routes between San Francisco International Airport and Oakland Metropolitan International Airport, on the one hand, and Travis Air Force Base on the other hand, only when Greyhound has ceased to provide such service because of a labor strike. In addition, VVBL holds a Class A Charter-party Carrier of Passengers Certificate No. TCP 35-A authorizing charter-party operations between points in California.

Bus, a Nevada corporation, proposes to control VVBL through the purchase of all the outstanding common stock of VVBL consisting of 1,400 shares owned by Horace Simmons (Simmons). A copy of the agreement for sale and transfer of the stock, attached to the application as part of Exhibit C, indicates that Bus would

issue a \$150,000 promissory note in payment for the stock, which had a total book value of \$149,490 on December 31, 1977. The note would be repayable in 120 monthly installments of \$1,250 plus interest at the rate of 7% per annum, and payment would be secured by a security agreement executed by Bus and VVBL, a copy of which is attached to the application as part of Exhibit C.

Simmons has been the owner and operator of VVBL and the former proprietorship known as Vaca Valley Bus Lines since 1950 and his wife has been employed in the business in a managerial capacity since 1958. Because of poor health, Simmons decided to relinquish control to Bus so that a new management could take over when Simmons is no longer capable of managing the business.

Both Simmons and his wife would be employed as consultants by VVBL and would continue to manage the enterprise for a period of five years pursuant to a consultant agreement and covenant not to compete, a copy of which is attached to the application as Exhibit D. As compensation for their services and covenant not to compete, VVBL would pay Simmons and his wife an aggregate sum of not less than \$120,000 nor more than \$200,000 depending on revenues generated by VVBL over the five years; moreover, if either party dies prior to completion of the payments, the balance would be paid by VVBL to the survivor or their heirs.

The Finance Division's review of VVBL's income statement for the first four and one half months of its operations ended December 31, 1977 shows net income of \$9,490 and depreciation and amortization accruals of \$1,252. On an annualized basis, therefore, about \$32,000 would be available to the carrier in the form of internally generated funds to cover payments to Simmons and, presumably, for dividends to Bus which could be applied to payments of principal and interest on the note to be executed by Bus in favor of Simmons.

Since the compensation to Simmons is predicated on net bus revenue earned in the operation, the continued success and growth of the business would be to his direct benefit. Furthermore, as additional security, the majority stockholder of Bus would execute an assignment of his interest in a \$600,000 promissory note, and Bus would pledge the stock of VVBL.

The Finance Division concludes that the proposed transaction would enable VVBL to continue providing a long-established service to the public. The Transportation Division has reviewed the application and has no objection to granting the authority requested.

After consideration the Commission finds that:

1. The control of VVBL by Bus through acquisition of the outstanding common stock of VVBL would not be adverse to the public interest.
2. The execution of a security agreement by VVBL would not be adverse to the public interest.
3. The issuance of evidence of indebtedness by VVBL in the form of a consultant agreement and covenant not to compete is for a proper purpose.

There is no known opposition and there is no reason to delay granting the authority requested in the application. On the basis of the foregoing findings we conclude that the application should be granted. A public hearing is not necessary. The action taken herein shall not be construed as a finding of the value of the common stock of VVBL. Because of time commitments, the applicants request that the order become effective at the earliest date permissible by law.

O R D E R

IT IS ORDERED that:

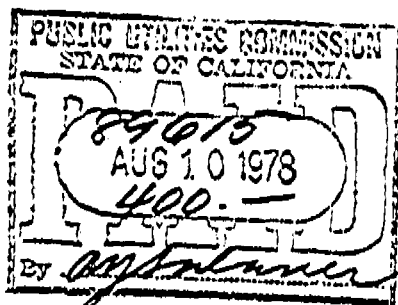
1. Bus, Inc. may control Vaca Valley Bus Lines, Inc.
2. Vaca Valley Bus Lines, Inc. may execute a security agreement in substantially the same form as that attached to the application as part of Exhibit C.
3. Vaca Valley Bus Lines, Inc. may execute an evidence of indebtedness in the form of a consultant agreement and covenant not to compete, providing for aggregate payments up to a maximum of \$200,000 from the effective date of the agreement for a period of five years thereafter.
4. This order shall become effective when Vaca Valley Bus Lines, Inc. has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$400.

Dated at San Francisco, California, this 8th day of AUG 8 1978, 1978.

Robert B. Berman
President

Viggo L. Sturgeon
Charles D. Goble

Commissioners



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

Commissioner Claire T. Dadrick, being necessarily absent, did not participate in the disposition of this proceeding.