

LEM

Decision No. 17869.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
PENNYANT PARLOR COACH LINES, INC., )  
for a permit to issue and sell its )  
securities. )

Application No. 13368

**ORIGINAL**

Charles Gray, for applicant.

BY THE COMMISSION:

O P I N I O N

In this proceeding Pennant Parlor Coach Lines, Inc., asks permission to issue 19,005 shares of its capital stock, of the aggregate par value of \$190,050.00, consisting of 7,500 shares of eight percent cumulative preferred stock and 11,505 shares of common stock.

It appears that Pennant Parlor Coach Lines, Inc., was organized on or about October 14, 1926, under the laws of the State of California, primarily for the purpose of taking over and operating a transportation business now owned by H.E. Kettering and operated for the transportation of passengers between San Francisco and Seattle, interstate business only being conducted, except in the State of Oregon, where local passengers are carried. The company's Articles of Incorporation provide for a total capital stock of \$250,000.00, divided into 25,000 shares of the par value of \$10.00 each, and consisting of \$100,000.00 of eight percent cumulative preferred stock redeemable at any time at 105, and \$150,000.00 of common stock. In making the present application the company asks permission to issue

its stock for the following purposes:-

1. To acquire assets, leases and facilities of E.E.Kettering- common stock		\$100,000.00
2. To acquire additional equipment- preferred stock . . . . .	\$75,000.	
common stock . . . . .	<u>15,000.</u>	90,000.00
3. To incorporators-common stock		<u>50.00</u>
	Total.....	<u><u>\$190,050.00</u></u>

It is reported that E. E. Kettering commenced the operations referred to herein during May, 1926. The record shows that he has offered to transfer <sup>to</sup> the corporation, the assets, leases and facilities used in connection with such operations in consideration for \$100,000.00 of common stock of the corporation and the assumption by the corporation of indebtedness of \$35,931.82. The properties proposed to be transferred include the following:-

- Certificate of public convenience and necessity granted April 14, 1926 by the Department of Public Works of the State of Washington.
- Certificate of public convenience and necessity granted October 6, 1926 by the Public Service Commission of the State of Oregon.
- Lease of office at 1180-A Market Street, San Francisco, running for five years from July 26, 1926.
- Lease of garage and repair shop at 244-9th Street, San Francisco, running for five years from October 31, 1926.
- Two Pierce-Arrow 23-passenger coaches.
- Two Mack 23-passenger coaches.

No certificate of public convenience and necessity has been obtained from the Railroad Commission of the State of California, as it has heretofore been decided that this Commission is without the power to grant or deny authority for the exercise of interstate operating privileges. (See Decision No. 16408 and Decision No. 16431.)

Testimony offered at the hearing in this matter indicates that the Pierce-Arrow coaches cost new approximately \$15,000.00 each, and the Mack coaches about \$12,000.00 each. No evidence was submitted bearing on the value of the other properties, except a general statement in the petition that, based on estimated earnings, the goodwill and franchises would have a value of around \$200,000.00. The applica-

tion does show that on September 1, 1926, there was \$35,931.82 owing by Mr. Kettering in connection with the acquisition of the properties and the business, and in addition, that Mr. Kettering had invested about \$27,000.00 in cash. The sum of these two figures is \$62,931.82. In support of the request to issue \$100,000.00 of stock to Mr. Kettering, applicant sets forth in Paragraph IX of its petition the following:-

"Mr. Kettering has invested in cash something over twenty-seven thousand dollars (\$27,000.00) in the business. He, of course, desires to retain control of the corporation and has offered to transfer all the physical assets and the leases and facilities used by him in connection with the operation of said line of parlor coaches, for ten thousand (10,000) shares of the common stock of your applicant. Your applicant desires to issue to Mr. Kettering twenty-seven hundred (2700) shares of its common stock out of escrow, to represent the cash actually put in the business by Mr. Kettering, and to issue the balance of said common stock, to-wit, seventy-three hundred (7300) shares, in escrow to be held until all of the preferred stock has been retired and until the further order of the Railroad Commission."

At the hearing it was reported that the figure of \$27,000.00 was in error and that H. E. Kettering has invested, instead, about \$25,000.00. The balance sheet of H.E.Kettering as of November 30, 1926 shows an investment of \$28,858.44.

We do not believe that we should authorize the issue of stock solely for the purpose of giving H.E.Kettering control of the affairs of the corporation and do not believe that the evidence herein justifies us in authorizing the issue of stock to Mr. Kettering in excess of \$29,000., which represents approximately the amount he had invested on November 30, 1926. We have, of course, no objection to the issue of common stock in place of eight percent preferred stock, but we do not think we should authorize the issue of such common stock in advance of the retirement of the preferred stock. The order herein, therefore, will authorize applicant to issue \$29,000.00 of common stock to Mr. Kettering in payment of his assets, leases and facilities, subject to the outstanding indebtedness of \$35,931.82.

Coming to the request to issue and sell additional stock of the par value of \$90,000.00, it appears that it is applicant's desire and intention to use the proceeds to be received to pay the indebtedness of \$35,931.82 it will assume, and to finance the cost of two new coaches, of the same type as those now used, which it is thought will cost about \$12,000.00 each. It is reported that at present thirteen round trips are made monthly between San Francisco and Seattle, using four coaches. To maintain this service it is said that it will be necessary to acquire a fifth coach and that during the summer a sixth coach must be added to take care of excursion business and heavy summer traffic. It is estimated that monthly revenues from ticket sales will amount to about \$9,400.00, and monthly expenses to \$5,348.00, leaving a monthly profit available for dividends of about \$4,052.00, or annually about \$48,624.00. In view of the fact that H.E. Kottering sustained a loss of \$3,182.58 to November 30, 1926, and that he figures a fifteen year life for his stage equipment, we are not convinced that the corporation can operate at a monthly profit of \$4,052.00.

Applicant proposes to sell the \$90,000.00 of stock in units of five shares of preferred and one share of common, of a total par value of \$60., at a price of \$50. a unit. It further proposes to use twenty percent of the proceeds to pay selling commissions, so that for the \$60. par value of stock it will receive in cash \$40. The total proposed issue of \$90,000.00 thus will yield it \$60,000.00 in cash to apply on the indebtedness of \$35,931.82 and to finance the cost of the two new coaches. This is equivalent to the issue of the stock at 66.67 percent of par value. We will not authorize the issue of the stock under these conditions. The order herein will authorize the issue of stock at not less than par, and will provide that not exceeding ten percent of the proceeds received may be used to pay commissions and selling expenses. However, we notice that applicant's Articles of Incorporation provide that there shall not be outstanding at any time more shares of preferred stock than of common stock. The

order herein authorizes the issue of \$29,000.00 of common stock to Mr. Kettering; \$15,000.00 of common stock, the additional amount requested, to be sold for cash; and \$50. of common stock to the corporation's incorporators. Necessarily, then, it seems to us, the authority to issue preferred stock should be limited to permitting the issue of a like amount of preferred stock and the order herein, therefore, will authorize the issue of \$44,050.00 of preferred stock.

#### O R D E R

Pennant Parlor Coach Lines, Inc., having applied to the Railroad Commission for permission to issue \$190,050.00 of stock, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue of \$88,100.00 of stock is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED that Pennant Parlor Coach Lines, Inc., be, and it hereby is, authorized to issue, on or before December 31, 1927, \$44,050.00 of its preferred stock and \$44,050.00 of its common stock.

IT IS HEREBY FURTHER ORDERED that Pennant Parlor Coach Lines, Inc. be, and it hereby is, authorized to deliver not exceeding \$29,000.00 of the common stock herein authorized to be issued to H.E. Kettering in payment for his properties, leases and facilities referred to in the foregoing opinion, subject to outstanding indebtedness of \$35,931.82, and to sell, for cash, at not less than par, \$50. of the common stock herein authorized to be issued to its five incorporators and to use the proceeds for working capital.

IT IS HEREBY FURTHER ORDERED that Pennant Parlor Coach Lines, Inc. be, and it hereby is, authorized to sell the remaining \$15,000. of common stock and the \$44,050.00 of preferred stock herein authorized to be issued, for cash, at not less than par, and to use an

amount of the proceeds not exceeding ten percent of the par value of stock sold to pay commissions and expenses incident to the sale thereof, and to use the remaining proceeds, and such portion of the ten percent not needed to pay commissions and expenses incident to the sale of stock, to pay in whole or in part the indebtedness of \$35,931.82 and to finance in part the cost of additional equipment.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall become effective upon the date hereof, and further, that applicant shall keep such record of the issue, sale and delivery of the stock herein authorized as will enable it to file, on or before the 25th day of each month a verified report, as required by the Railroad Commission's General Order No. 24, which order insofar as applicable, is made a part of this order.

IT IS HEREBY FURTHER ORDERED that the application, insofar as it involves the issue of \$30,950.00 of preferred stock and \$71,000. of common stock be, and it hereby is, dismissed without prejudice.

DATED at San Francisco, California, this 12<sup>th</sup> day of January, 1927.

Ernesto  
H. B. ...  
C. S. ...  
Leon ...  
...

Commissioners.