

Decision No. 23197

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 CALIFORNIA-NEVADA STAGES, INC.,
 for authority to issue and sell
 fifty-five (55) shares of its capital
 stock and to purchase and acquire
 therewith the right of C.C.Cochran
 to operate an automobile stage line as
 a common carrier of passengers, baggage
 and express between Sacramento and
 Marysville, California, and inter-
 mediate points, as authorized by the Com-
 mission, together with certain operative
 property and assets; and of said C. C.
 Cochran to sell and transfer said
 property to California-Nevada Stages,
 Inc.

ORIGINAL

Application No. 17041

Sanborn, Roehl, Smith and Brookman,
for applicants.

BY THE COMMISSION:

O P I N I O N

Application has been made to the Railroad Commission for an order authorizing C. C. Cochran to sell and transfer certain auto stage operative rights and properties to California-Nevada Stages, Inc., and authorizing the latter to issue \$5,500.00 of common stock in payment.

It appears that C. C. Cochran is engaged in the business of operating an automobile stage line for the transportation of passengers, baggage and express, for compensation, between certain points in the Sacramento Valley, as hereinafter set forth, conducting his operations under authority granted by the Commission

in Decision No. 15013, dated June 6, 1925, in Application No. 10598, and Decision No. 19167, dated December 23, 1927, in Application No. 12474.

Reference to these decisions shows that by Decision No. 15013, C. C. Cochran was granted a certificate of public convenience and necessity to operate as a common carrier of passengers and baggage over and along the Garden Highway via Nicolaus, Wilson School, Tudor, Knights Landing Junction, Oswald and Bogue between Sacramento and all intermediate points between Sacramento and Yuba City and between Marysville and all intermediate points between Marysville and Sacramento, provided that no local service be given between Marysville and Yuba City and no through service between Sacramento and Yuba City or between Sacramento and Marysville, the certificate being granted with the understanding that seventeen miles of the route was owned by Natomas Company of California and the authority granted to operate was made subject to the rights of that corporation as owner of the private road. It also is shown that by the subsequent Decision No. 19167, C. C. Cochran was authorized to operate an express service in conjunction with and as a part of his passenger operative rights between Sacramento and Marysville and intermediate points, via the Garden Highway, provided that no local service be given between Marysville and Yuba City nor between Sacramento and Yuba City nor Sacramento and Marysville; and further, that express parcels shall not exceed a weight of one hundred pounds per unit and are to be carried only on the passenger stages.

The application shows that C. C. Cochran desires to transfer the above operative rights, together with two Dodge Graham seventeen passenger automobile stages, for \$5,500.00 in stock to California-Nevada Stages, Inc., a corporation operating automobile stage lines for the transportation of passengers, baggage and express between Sacramento and Marysville and intermediate points via Roseville and

Lincoln. In support of this proposal, applicants allege that the present value of the two stages is \$2,500.00 and that C. C. Cochran has expenses \$3,000.00 in attorney's fees and expenses in securing his operative rights, and \$1,731.09 in attorney's fees and expenses in connection with applications of other operators to extend service into his territory. Other assets are reported at \$1,369.70 and outstanding liabilities at \$1,536.51.

We have not sufficient information before us to pass upon the reasonableness of the item of \$1,731.09 representing expenditures for attorney's fees and expenses in connection with applications of other carriers to extend operations into the territory served by C. C. Cochran. The authority herein granted is not to be construed as obligating the Commission in the future to authorize this or any other applicant to issue stock or other securities because of expenditures of the nature of the items apparently included in the \$1,731.09. Ordinarily such expenditures should be charged to operating expenses. This application can be granted without passing on the propriety of issuing stock against the \$1,731.09.

The order herein accordingly will authorize the transfer of the operative rights and the issue of the stock in the amount requested. In making this order, we wish to place the purchaser upon notice that operative rights do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder thereof a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state, which is not in any respect limited to the number of rights which may be given.

O R D E R

Application having been made to the Railroad Commission for an order authorizing the transfer of properties and the issue of stock, and the Railroad Commission being of the opinion that this is not a matter in which a public hearing is necessary, that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the stock is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expense or to income;

IT IS HEREBY ORDERED that C. C. Cochran be, and he hereby is, authorized to sell and transfer to California-Nevada Stages, Inc. his operative rights and equipment referred to in the foregoing opinion, and California-Nevada Stages, Inc. be, and it hereby is, authorized to purchase and acquire said rights and properties and to issue, in the acquisition thereof, not exceeding \$5,500.00 of its common capital stock.

The authority herein granted is subject to the following conditions:

1. The order herein shall not be construed as authorizing any alteration or elimination of the restrictions heretofore imposed on said operating rights, which restrictions are set forth in the description of said operating rights heretofore and herein referred to.
2. C. C. Cochran shall within thirty (30) days from the date hereof cancel tariffs and time schedules on file in his name with the Railroad Commission, and said California-Nevada Stages, Inc., a corporation, shall file in its own name tariffs and time schedules, said time schedules and tariffs to contain the same rates, rules and regula-

- tions now maintained by C. C. Cochran, or rates and time schedules satisfactory to the Railroad Commission.
3. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.
 4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
 5. No vehicle may be operated by applicant California-Nevada Stages, Inc. unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.
 6. No authority is hereby granted to California-Nevada Stages, Inc. to consolidate the rights to be acquired from C. C. Cochran with the rights it now owns.
 7. California-Nevada Stages, Inc. shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds 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.

8. The authority herein granted will become effective five (5) days from the date hereof. Under such authority no properties may be transferred, nor stock issued subsequent to January 31, 1931.

DATED at San Francisco, California, this 19th day of December, 1930.

C. S. Lewis

Leon A. White

Wm. S. Lewis

Commissioners.