

Decision No. 27900

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ROBERT P. KELLOGG to sell and LAGUNA)
BEACH-SANTA ANA STAGE LINE, a corpora-)
tion, to purchase, an automobile)
passenger and express line operated) Application No. 19841
between Santa Ana and Laguna Beach,)
California.)

Loren W. Smith, for applicants.

BY THE COMMISSION:

O P I N I O N

ORIGINAL

In this proceeding the Commission is asked to enter its order authorizing Robert P. Kellogg to sell to the Laguna Beach-Santa Ana Stage Line, a corporation, his operative right acquired under the authority granted by Railroad Commission Decision No. 26759, dated January 29, 1934, in Application No. 19272, together with the properties described in amended Exhibit "D"; and to authorize Laguna Beach-Santa Ana Stage Line to issue in payment for such properties \$3,000.00 par value of its common capital stock.

The operative right acquired by Robert P. Kellogg under the authority granted by said Decision No. 26759 was created by Decision No. 16725, dated May 13, 1926 in Application No. 12812 and by Decision No. 23070, dated November 13, 1930 in Application No. 15665. In general the operative right covers the transportation of passengers and property between Santa Ana and Laguna Beach via Newport Beach. Reference is made here to the aforesaid decisions for the extent of the operative rights now owned by Robert P. Kellogg.

The property which Robert P. Kellogg asks permission to transfer consists of three buses, shop equipment, office equipment, cash and accounts receivable, all having a reported aggregate value of \$2,866.25. In payment for such properties and the operative right the corporation asks permission to issue \$3,000.00 par value of its common capital stock.

The record shows that the corporation if it acquires the properties of Robert P. Kellogg will continue the service now rendered by said Robert P. Kellogg under the rates and time schedules which he has now on file with the Commission.

We are of the opinion that the transfer of the properties and issue of stock should be authorized. But Laguna Beach-Santa Ana Stage Line, a corporation, is hereby put 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 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

The Commission having been asked to enter its order, as indicated in the foregoing opinion, a public hearing having been held on this application before Examiner Fankhauser, and the Commission being of the opinion that the money, property or labor to be procured or paid for by Laguna Beach-Santa Ana Stage Line, a corporation, through the issue of \$3,000.00 of stock is reasonably required for the purpose herein stated, and that the expenditure for

such purpose is not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED as follows:-

- a. Robert P. Kellogg may, on or before June 30, 1935, transfer to the Laguna Beach-Santa Ana Stage Line, a corporation, his automobile equipment and other properties listed in the amendment of Exhibit "D" filed in this proceeding on April 12, 1935, and his operative right acquired under the authority granted by the Commission in Decision No. 26759, dated January 29, 1934.
- b. Laguna Beach-Santa Ana Stage Line, a corporation, may, on or before June 30, 1935, issue in payment for the aforesaid properties, not exceeding \$3,000.00 par value of its common capital stock.
- c. The authority herein granted is subject to the following conditions:-
 1. The consideration to be paid for the properties 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 purposes other than the transfer herein authorized.
 2. Robert P. Kellogg and Laguna Beach-Santa Ana Stage Line, a corporation, shall join immediately in common supplement to be filed in triplicate, to the tariffs on file with the Commission, in the name of the transferrer, Robert P. Kellogg on the one hand withdrawing and Laguna-Beach-Santa Ana Stage Line, a corporation, on the other hand accepting and establishing such tariffs and all effective supplements thereto.
 3. Robert P. Kellogg shall withdraw immediately time schedules filed in his name with the Railroad Commission, and Laguna Beach-Santa Ana Stage Line, a corporation, shall file, in duplicate, in its own name, new time schedules which shall be identical with those now on file in the name of Robert P. Kellogg, or time schedules satisfactory to the Commission.

4. The rights and privileges herein authorized to be transferred may not hereafter be sold, leased, transferred nor assigned, nor service thereunder discontinued, increased or changed by Laguna Beach-Santa Ana Stage Line, a corporation, unless written consent of the Railroad Commission has first been secured.
5. No vehicle may be operated by Laguna Beach-Santa Ana Stage Line, a corporation, under the authority granted, 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. Laguna Beach-Santa Ana Stage Line, a corporation, shall keep such record of the issue of the stock herein authorized as will enable it to file, within thirty(30) days thereafter, 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.
7. The authority herein granted will become effective upon the date hereof.

DATED at San Francisco, California, this 29th day of
April, 1935.

Leon C. Sullivan

M. G. Purr

M. E. Lamm

W. B. Lamm

Frank A. Lamm

Commissioners.

CORRECTION

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THIS DOCUMENT
HAS BEEN REPHOTOGRAPHED
TO ASSURE LEGIBILITY

4. The rights and privileges herein authorized to be transferred may not hereafter be sold, leased, transferred nor assigned, nor service thereunder discontinued, increased or changed by Laguna Beach-Santa Ana Stage Line, a corporation, unless written consent of the Railroad Commission has first been secured.
5. No vehicle may be operated by Laguna Beach-Santa Ana Stage Line, a corporation, under the authority granted, 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. Laguna Beach-Santa Ana Stage Line, a corporation, shall keep such record of the issue of the stock herein authorized as will enable it to file, within thirty(30) days thereafter, 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.
7. The authority herein granted will become effective upon the date hereof.

DATED at San Francisco, California, this 29th day of
April, 1935.

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M. A. P.

M. G. L.

M. S. L.

Frank R. L.

Commissioners.