

Decision No. 22698

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
W. H. PIMENTEL, d b a Pierce Arrow
Stages to sell and Pierce Arrow Stages,
Inc. to purchase an automotive passenger
line operated between Sacramento and
points on Lake Tahoe in California.

ORIGINAL

Application No. 22698

BY THE COMMISSION:

O P I N I O N

In this proceeding, the Railroad Commission is asked to enter its order authorizing W. H. Pimentel, doing business as Pierce Arrow Stages, to transfer to Pierce Arrow Stages, Inc., a corporation, the certificates of public convenience and necessity, referred to hereafter, and authorizing said corporation to issue \$25,000 of common stock.

Applicant W. H. Pimentel, doing business as Pierce Arrow Stages, is now engaged in the operation of an automobile stage line for the transportation of passengers, baggage and express in intra-state and interstate commerce between the following points:-

California:

- (a) Between Sacramento and Lake Tahoe points via Placerville under and pursuant to Decision No. 24674 on Application 18071; Decision No. 24973 on Application 18200 and Decision No. 29584 on Application 20976 of the Railroad Commission of the State of California; together with an alternate route via that portion of U.S. Highway No. 50 from a point about four miles east of Shingle Springs for a distance of approximately two miles under and pursuant to Decision No. 31014 on Application 20976 of said Commission.
- (b) Between Brockway and the California-Nevada State Line and between Lakeside and the California-Nevada State Line under and pursuant to Decision No. 30092 on Application No. 21388 of said Commission.

Nevada:

- (a) Between Reno, Nevada, and the California-Nevada State Line at Calneva, Nevada, and intermediate points, excepting those points between Reno and the Reno Hot Springs inclusive and intermediate points, and between Reno, Nevada, and the California-Nevada State Line, near Lakeside, and intermediate points, except points between Reno and Carson City, via U.S. Highways 395 and 50 under and pursuant to Docket No. CPC A-457 dated June 29, 1937, of the Public Service Commission of Nevada.
- (b) Between Incline, Nevada, and the California-Nevada State Line, near Lakeside, Nevada, and intermediate points, via Glenbrook, Zephyr Cove, Conference Point and Round Mountain under and pursuant to Docket No. CPC A-457 dated March 21, 1939 of said Commission.
- (c) Between Reno, Nevada, and the California-Nevada State Line in Douglas County, Nevada, under and pursuant to Docket No. CPC A-16 and CPC A-246 dated September 8, 1938, of said Commission.

Interstate Commerce operating rights:

- (a) Between Sacramento, California, and Glenbrook, Nevada, and between Sacramento, California, and Placerville, California, and any and all other operating rights set forth in the certificate of public convenience and necessity issued in Docket No. MC 67048 on August 12, 1937, by the Interstate Commerce Commission.
- (b) Between Reno, Nevada, and the California-Nevada State Line at Cal-Neva, Nevada, set forth in the certificate of public convenience and necessity issued in Docket No. MC 67048, Sub No. 1, on January 3, 1939, by the said Commission.
- (c) All right, title and interest in and to those operating rights between Reno, Nevada, and Camp Richardson, California, to be acquired from the Virginia and Truckee Transit Company and now the subject of proceeding before the said Commission in Docket No. MC-FC 4557.

For 1938 he reports operating revenues of \$27,554.12.

Under the agreement of sale and bill of sale filed in this proceeding as Exhibit B, W. H. Pimentel will sell to Pierce Arrow Stages, Inc. said operative rights and fifteen units of equipment.

The depreciated cost of the equipment is reported at \$15,264.62. He further reports an expenditure of \$1,034.70 in obtaining operative rights other than those acquired from A. L. Richardson, Jr., under the authority granted by Decision No. 29584, dated March 8, 1937, in Application No. 20976, as amended. We have no record of the amount expended by the grantees of the certificates of public convenience and necessity acquired by W. H. Pimentel from A. L. Richardson, Jr.

Pierce Arrow Stages, Inc. is a corporation organized under the laws of the State of California. It has an authorized stock issue of \$25,000 divided into 250 shares of the par value of \$100 each. The company's articles of incorporation provide that the place where the principal business of the corporation is to be transacted is the City of Sacramento, and that its principal office is to be maintained at such place. The articles of incorporation further provide that no sale, lease, conveyance, transfer, exchange, or other disposition of all or substantially all of the property and assets of the corporation shall be made unless approved by the vote or written consent of the shareholders entitled to exercise three fourths of the voting shares of the corporation.

On the basis of the information at hand, we are of the opinion that Pierce Arrow Stages, Inc. should not issue in excess of \$16,300 of stock for the properties it intends to acquire from W.H.Pimentel. We have been advised that these properties will be transferred to Pierce Arrow Stages, Inc. free and clear of all indebtedness and encumbrances. If applicant, Pierce Arrow Stages, Inc., will, on or before August 1, 1939, submit evidence showing the amount actually expended by its predecessors in obtaining the operative rights which A. L. Richardson, Jr. transferred to W.H.Pimentel, we will consider such evidence, and if found reasonable, authorize it to issue additional stock.

Applicant Pierce Arrow Stages, Inc. is hereby placed upon notice that operating rights granted by this Commission 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 in the number of rights which may be given.

O R D E R

The Commission having considered the request of applicants, and it being of the opinion that this is not a matter in which a public hearing is necessary, that applicant Pierce Arrow Stages, Inc. should be permitted to issue not exceeding \$16,300 par value of its common capital stock, that the issue of such stock is reasonably required by said applicant for the purpose herein stated, and that the expenditures for such purpose are not in whole or in part reasonably chargeable to operating expenses or to income, and that this application should be granted, subject to the provisions of this order, therefore,

IT IS HEREBY ORDERED that the Railroad Commission of the State of California, insofar as it has jurisdiction over the matter, authorizes W. H. Pimentel, doing business as Pierce Arrow Stages, to transfer, after the effective date hereof and prior to August 1, 1939, to Pierce Arrow Stages, Inc. the operative rights and properties described in Exhibit B filed in this proceeding.

IT IS HEREBY FURTHER ORDERED that Pierce Arrow Stages, Inc. be, and it is hereby, authorized to issue, after the effective date hereof and prior to August 1, 1939, in payment for the aforesaid properties, free and clear of all liens and indebtedness, \$16,300 par value of its common capital stock.

IT IS HEREBY FURTHER ORDERED that the authority granted herein is subject to the following conditions:-

1. W. H. Pimentel and Pierce Arrow Stages, Inc. shall within twenty (20) days after the effective date of this order, join in common supplement, to be filed in triplicate, to the tariffs on file with the Commission covering service given by W. H. Pimentel, said W. H. Pimentel on the one hand withdrawing from such tariffs, and said Pierce Arrow Stages, Inc. on the other hand adopting as its own such tariffs and all effective supplements thereto.
2. Applicant Pierce Arrow Stages, Inc. shall file within twenty (20) days after the effective date of this order, in duplicate, time schedules covering the service under the operative rights herein authorized to be transferred to it, such time schedules to be identical with those heretofore filed by said W. H. Pimentel, or time schedules satisfactory to the Commission.
3. The rights and privileges herein authorized to be transferred may not hereafter be sold, transferred, leased or assigned, or service thereunder discontinued, until the written consent of the Railroad Commission has first been secured.
4. No vehicle may be operated by Pierce Arrow Stages, Inc. unless such vehicle is owned by it or is leased by it under a contract or agreement on a basis satisfactory to the Commission.
5. The consideration paid by Pierce Arrow Stages, Inc. for the properties herein authorized to be transferred, shall never be urged before this Commission or any other regulatory body as a measure of the value of such properties for any purpose other than the transfer herein authorized.

6. The authority herein granted to transfer certificates of public convenience and necessity mentioned in this order, and the issue of stock authorized by this order, shall lapse and be void if the parties shall not have complied with all the conditions within the periods of time fixed herein unless for good cause shown, the time shall be extended by further order of the Commission.

IT IS HEREBY FURTHER ORDERED that the authority herein granted shall become effective ten (10) days after the date hereof and that within sixty(60) days after acquiring the aforesaid properties and the issue of stock herein authorized, Pierce Arrow Stages, Inc. shall file with the Railroad Commission a report showing the amount of stock it issued in payment for the aforesaid properties, and the name or names of the persons to whom such stock was issued.

DATED at San Francisco, California, this 23rd day of May, 1939.

Richard W. ...
Frank ...
... ..
...
Justice J. ...
Commissioners.