

Decision No. 37003

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of JOHN SMALLEY to sell and AMADOR STAGE LINES, INC., to purchase an automobile passenger and express line operated between Jackson (Amador County) and Sacramento, (Sacramento County); and Jackson (Amador County) and Stockton (San Joaquin County), California.

**ORIGINAL**

Application No. 26047

In the Matter of the Application of AMADOR STAGE LINES, Inc. for an Order Authorizing Issue of Stocks.

Application No. 26048

BY THE COMMISSION:

O P I N I O N

In Application No. 26047, John Smalley asks permission to transfer, for a cash consideration of \$10,000, to Amador Stage Lines, Inc. the operative rights and equipment used in the business of transporting passengers and express between Jackson and Sacramento and between Jackson and Stockton.

John Smalley acquired the operative rights under the authority granted by Decision No. 7795, dated June 24, 1920, in Application No. 5162; under the authority granted by Decision No. 24928, dated June 27, 1932, in Application No. 13207;

under Decision No. 25287, dated October 24, 1932, in Application No. 18446, and under Decision No. 32403, dated October 3, 1939, in Application No. 23007. The equipment, which he has agreed to sell, consists of four 7-passenger automobiles and one 11-passenger Buick automobile, including spare parts, several new tires and tubes, and office furniture. In the amended petition filed in Application No. 26048, the present value of the equipment is reported at \$5,200. For 1943, John Smalley reports operating revenues of \$19,702.88, consisting of \$17,245.14 of passenger revenue and \$2,457.74 of express revenue and parcel revenue.

In the amended petition filed in Application No. 26048, Amador Stage Lines, Inc. asks permission to issue 52 shares of capital stock at \$100 per share. The stock will be issued to the following parties:

Philip J. Bibb	15	Shares
Kenneth G. Forrest	1	"
Sterling P. Forrest, Jr.	1	"
Kenneth G. Forrest and Sterling P. Forrest, Jr., as joint tenants	35	"

The proceeds realized through the issue of the stock will be used to pay, in part, the purchase price of the properties which John Smalley has agreed to sell to the Amador Stage Lines, Inc. The moneys needed by Amador Stage Lines, Inc. to pay the remaining purchase price will be obtained through the issue of an unsecured note in the sum of \$4,600, payable within less than one year after date with interest at 5% per annum.

An examination was made of the equipment and other physical properties which John Smalley has agreed to sell to

Amador Stage Lines, Inc. This examination shows that the properties are reasonably worth \$5,200. Amador Stage Lines, Inc. in its supplemental petition alleges that the operative rights have a value in excess of \$4,800 assigned to them in said petition. Our records indicate that fees in the amount of \$150 have been paid to California in connection with said operative rights. This sum may be charged to Intangible Capital. The difference between the \$4,800 and the \$150, to-wit: \$4,650, should be charged to a suspense account and amortized in five years or less after the acquisition of the operative rights.

We believe that the transfer of the operative rights and other properties is in the public interest. However, Amador Stage Lines, Inc. is placed upon notice that operative rights as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as a consideration for the grant of such rights. 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 as to the number of rights which may be given.

#### O R D E R

The Commission having considered applicants' requests and it being of the opinion that this is not a matter on which a hearing is necessary; that Amador Stage Lines, Inc. should be

authorized to issue \$5,200 of capital stock for the purpose herein indicated; that the money, property or labor to be procured or paid for by the issue of said stock is reasonably required by Amador Stage Lines, Inc. for the purpose herean stated; that the expenditures for said purpose are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that these applications should be granted subject to the provisions of this Order, therefore,

IT IS HEREBY ORDERED as follows:

1. John Smalley may, after the date hereof and on or before June 30, 1944, sell to Amador Stage Lines, Inc. the operative rights to which reference is made in the foregoing opinion, together with the automotive equipment and other properties described in the agreement of sale filed in Application No. 26047 as Exhibit "A."

2. Amador Stage Lines, Inc. may, after the date hereof and on or before June 30, 1944, issue at not less than par, 52 shares of its capital stock and use the proceeds, to-wit: \$5,200, realized from the issue of said stock to pay in part the cost of the properties which John Smalley is herein authorized to transfer to said Amador Stage Lines, Inc. Said Amador Stage Lines, Inc. may acquire said properties and operate the same.

3. Applicants shall comply with the provisions of General Order No. 79, General Order No. 80, and Part IV of General Order No. 93-A by filing in triplicate and concurrently making effective tariffs and time tables satisfactory to the Commission within thirty (30) days from the effective date of

this Order and on not less than five days' notice to the Commission and to the public.

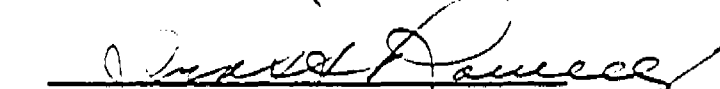
4. If Amador Stage Lines, Inc. acquires said properties, it shall charge \$4,650 of the purchase price to a suspense account and amortize said \$4,650 in five or less consecutive equal annual charges to earned surplus, the first charge to surplus to be made in 1944.

5. Amador Stage Lines, Inc. shall file with the Railroad Commission a report required by the Commission's General Order No. 24-A, which Order insofar as applicable is made a part of this Order.

Dated at San Francisco, California, this 18<sup>th</sup> day of April, 1944.









Commissioners.