

Decision No. 39245

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 CHARLES A. HAND and ROY ORRICK, a
 partnership, doing business as
 KERNVILLE STAGE COMPANY, for per-
 mission to terminate partnership and
 to sell property and transfer opera-
 tive rights, and ROY ORRICK, an
 individual doing business as KERNVILLE
 STAGE COMPANY, to acquire said property
 and operative rights for the transpor-
 tation of passengers, baggage, express
 and freight between Bakersfield, Cali-
 fornia, and Kernville and Onyx, Cali-
 fornia and intermediate points, and to
 mortgage and otherwise encumber property
 thereof.

ORIGINAL

Application
No. 27557

O P I N I O N

This application shows that Charles A. Hand and Roy Orrick, applicants herein, are co-partners doing business as Kernville Stage Company and as such are engaged in the operation of motor vehicles for the transportation of passengers, baggage, express and freight between Bakersfield on the one hand, and Kernville and Onyx on the other hand, serving intermediate points. The application further shows that said applicants have concluded to terminate their partnership and accordingly have entered into an agreement, dated May 24, 1946, (Exhibit "B" filed in the proceeding) whereby said Hand has agreed to sell his interest in the business and properties to said Orrick for the sum of \$9,000.

The business formerly was conducted by Hand as an individual under operative rights acquired by him pursuant to

authority granted by the Commission by Decision No. 22842, dated September 8, 1930. ⁽¹⁾ In 1946, he sold a one-half interest in the business and properties to Roy Orrick for \$9,500. (Decision No. 38727, dated February 26, 1946.) He now reports that because of his age and the condition of his health he desires to retire from participation in the business.

The assets of the partnership are described as follows:

A. PUBLIC UTILITY HIGHWAY COMMON CARRIER
AND PASSENGER STAGE SERVICE:

1. Tangible Property:

Automotive Equipment:

1 - 1939 White, Stake Body, Engine No. 30A-1702	
1 - 1939 Chevrolet Bus, Engine No. BFC 635534	
1 - Dodge, Comb. Pass. & Mail, Engine No. T118-44579	\$ 2,250.00

Real Property & Improvements:

Lot Eight (8) Block Five (5) of the original Townsite of Isabella, County of Kern, State of California, together with warehouse thereon	750.00
---	--------

(1)

The revenues and expenses of the business for the last three years have been reported as follows:

	<u>1943</u>	<u>1944</u>	<u>1945</u>
Revenues:			
Passenger	\$ 4,792.13	\$ 5,865.57	\$ 6,371.09
Freight	1,680.09	2,088.07	3,864.64
Mail	2,400.00	2,457.05	2,536.92
Express	4,560.61	4,914.73	5,574.35
All other	3,582.47	4,072.81	4,096.89
Total	<u>17,015.30</u>	<u>19,398.23</u>	<u>22,443.89</u>
Expenses	<u>11,651.03</u>	<u>13,427.19</u>	<u>13,340.47</u>
Profit	<u>\$ 5,364.27</u>	<u>\$ 5,971.04</u>	<u>\$ 9,103.42</u>

Brought forward-3,000.00

2. Intangible Property:

Operative rights	None
Good Will and Going Concern	10,000.00
Cash in Bank	<u>1,000.00</u>

Total Public Utility Property	\$14,000.00
-------------------------------	-------------

B. NON-PUBLIC UTILITY PROPERTY:

1. Intangible Property:

Distributorship of Coca Cola Co., Acquired 1920	\$ 2,000.00	
Distributorship of 7-Up Co., Acquired 1938	400.00	
Distributorship for Associated Oil Co., Acquired 1939	2,200.00	
Agency, Bakersfield Laundry, Established 1925	<u>400.00</u>	<u>5,000.00</u>
Total		<u>\$19,000.00</u>

The agreement between the two applicants provides for the payment of \$2,000 of the purchase price in cash on or before thirty days after approval of the transfer by the Railroad Commission, and for the issue of a note for \$7,000 for the balance of said purchase price, said note to be repayable in monthly installments of \$200 with interest on unpaid balances at the rate of 6 percent per annum. The payment of the note will be secured by a deed of trust covering the real property referred to in the above tabulation and by a chattel mortgage covering the three motor vehicles. Copies of the proposed instruments were filed with the Commission on June 24, 1946.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary and that an order should be made granting applicants' requests. In making this

order the Commission is not making a finding of the value of the rights and properties herein authorized to be transferred. However, it appears to be desirable at this time to indicate the accounting procedure to be followed by Orrick in setting up his books of account.

The amount assigned for good will and going concern value, reported at \$10,000 in the foregoing tabulation, should be charged to account 28, Deferred Debits, and written off within five years after the date hereof by charges to account 92, Miscellaneous Charges to Income. The \$5,000 reported under non-public utility property should be recorded under account 22-6, Non-carrier Property and Equipment.

Roy Orrick is hereby 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 the 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 in 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 operative rights and properties and the execution of a deed of trust, a chattel mortgage and a note for \$7,000, and the Commission being of the

opinion 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 said note is reasonably required for the purpose specified herein,

IT IS HEREBY ORDERED as follows:

1. Charles A. Hand and Roy Orrick, after the effective date hereof and on or before October 31, 1946, may transfer to Roy Orrick the operative rights and properties referred to in the foregoing opinion and in this application, and Roy Orrick may acquire said rights and properties, such transfer to be in accordance with the terms of the agreement dated May 24, 1946, filed in this proceeding as Exhibit "B".

2. Roy Orrick, after the effective date hereof and on or before October 31, 1946, may execute a deed of trust and a chattel mortgage in, or substantially in, the same form as the deed of trust and the chattel mortgage filed in this proceeding on June 24, 1946, and may issue a note in the principal amount of \$7,000, payable in monthly installments of \$200 with interest at the rate of 6 percent per annum on unpaid balances, for the purpose of financing in part the purchase price of the properties herein authorized to be transferred.

3. Applicants shall comply with the provisions of General Orders No. 79 and No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty (60) days from the effective date of this order and on not less than one (1) day's notice to the Commission and to the public.

4. Applicants shall record the value assigned to "good will and going concern" and to non-public utility intangible property in the manner indicated in the foregoing opinion.

5. The authority herein granted will become effective when Roy Orrick has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars.

6. Within thirty (30) days after the issue of the note herein authorized, Roy Orrick shall file a report thereof as 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 30 day of July, 1946.

Edward C. Anderson
Justice F. C. Casper
Thomas W. Carey
Isaac P. Lewis
Harold J. Hills
 Commissioners

