

Decision No. 40107

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
JOHN L. COUTTS to transfer an)
automotive freight line operated by)
him under the firm name of LAKE-)
SACRAMENTO TRANSPORTATION CO., and)
of the LAKE-SACRAMENTO TRANSPORTATION)
CO. INC., a corporation, for an)
order authorizing it to acquire the)
said automotive freight line and)
authorizing it to issue its capital)
stock.)
-----)

ORIGINAL

Application
No. 28210

O P I N I O N

This is an application for an order of the Public Utilities Commission authorizing John L. Coutts to transfer highway common carrier operative rights and properties to Lake-Sacramento Transportation Company, Inc., a corporation, and authorizing said corporation to issue 1,200 shares of no par value common capital stock.

The application shows that John L. Coutts is the owner of a certificate of public convenience and necessity, acquired by him under authority granted by the Commission by Decision No. 37728, dated March 13, 1945, in Application No. 26569, authorizing operations as a highway common carrier for the transportation of property between Sacramento and Lakeport, and intermediate points. The equipment used in the operation, according to the present application, includes one tractor, one trailer, two trucks, one van and one sedan.

It appears that John L. Coutts desires to incorporate his business and to that end has caused the organization, on or about January 19, 1946, of Lake-Sacramento Transportation Company, Inc., a corporation. He now proposes, subject to receiving permission from this Commission, to transfer to said corporation, in exchange for 1,200 shares of no par value common capital stock, the certificate of public convenience and necessity and the assets of his business now operated by him under the name of Lake-Sacramento Transportation Co. Said 1,200 shares will be held by John L. Coutts and William L. Reynolds who are now operating and managing the business and will continue to do so when the rights and equipment are acquired by the corporation.

The original cost of the equipment to be transferred is reported at \$13,481.89. Included therein is the cost, \$7,066.89, of a G.M.C. truck and Reliance trailer purchased in January, 1947, under a conditional sale contract providing for deferred payments of \$4,823.44, including financing charges of \$336.52, over a period of eighteen months. A copy of the conditional sale contract has been filed in this proceeding.

The indebtedness has been reduced to \$4,555.48. It is the intention of the corporation to assume the payment of this amount plus other indebtedness of \$250.35.

The Commission did not authorize John L. Coutts to execute the conditional sale contract. It clearly appears, however, that his failure to obtain such authorization was through inadvertence and with no intent on his part to evade the provisions of the Public Utilities Act. The order herein will

authorize the corporation to assume the payment of the outstanding indebtedness and to execute a new conditional sale contract.

Applicants are 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 to the number of rights which may be given.

O R D E R

The Commission having considered the above entitled matter and being of the opinion that a public hearing is not necessary, that an order granting the application should be entered, as herein provided, and that the money, property or labor to be procured or paid for through the issue of the stock and the conditional sale contract herein authorized is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED as follows:

1. John L. Coutts, after the effective date hereof and on or before April 30, 1947, may transfer to Lake-Sacramento

Transportation Company, Inc. the certificate of public convenience and necessity acquired by him under authority granted by Decision No. 37728, dated March 13, 1945, and the equipment referred to herein.

2. Lake-Sacramento Transportation Company, Inc., after the effective date hereof and on or before April 30, 1947, may issue not exceeding 1,200 shares of no par value common stock and assume the payment of indebtedness of \$4,805.83 for the purpose of paying for the properties of John L. Coutts, and may execute a conditional sale contract, in, or substantially in, the same form as that filed in this proceeding, providing for deferred payments of not exceeding \$4,555.48 for the purpose of refinancing indebtedness to be assumed.

3. Applicants shall comply with the provisions of General Order 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 hereof and on not less than one (1) day's notice to the Commission and to the public.

4. The authority herein granted is not to be construed to be a finding of value of the properties herein authorized to be transferred.

5. Lake-Sacramento Transportation Company, Inc., within thirty (30) days after the issue of the stock herein authorized, shall file with the Commission a statement showing the journal entries used to record on its books the purchase of the properties of John L. Coutts and a report of the issue of the stock and

conditional sale contract as required by the Commission's General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

6. The authority herein granted will become effective twenty (20) days from the date hereof, provided that Lake-Sacramento Transportation Company, Inc., has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which minimum fee is Twenty-five (\$25.00) Dollars.

Dated at San Francisco, California, this 1st day of April, 1947.

Harold P. Kule
Justin F. Coe
John H. Powell
C. J. ...
Robert H. ...
Commissioners

