

ORIGINAL

Decision No. 41057

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ROY ORRICK, an individual, doing)
business as KERNVILLE STAGE COMPANY,)
to sell, and JOHN F. BURSON, an)
individual, to purchase property)
and operative rights for the trans-)
portation of passengers, baggage)
and express between Bakersfield,)
California, and Kernville and Onyx,)
California, and intermediate points,)
and to mortgage and otherwise encumber)
property thereof.)

Application No. 28834

O P I N I O N

Roy Orrick doing business as Kernville Stage Company holds operative rights pursuant to decisions issued by this Commission authorizing the transportation of passengers, baggage, express and freight between Bakersfield, Kernville and Onyx via Isabella and Weldon. He has requested the Commission to authorize him to sell and transfer to John F. Purson and the latter requests authority to purchase and acquire that portion of said operative rights authorizing the transportation of passengers, baggage and express. Orrick desires to retain that part of the operative right authorizing transportation of freight. Included in the proposed transfer are two units of passenger stage equipment and certain non-public utility property.

The consideration to be paid for the property proposed to be transferred is stated to be \$15,000, none of which is applicable to the operative rights. According to the application, the two units of automotive equipment proposed to be transferred have a present market value of \$5,750 and the remainder of the purchase price, \$9,250, is said to be the value of certain contracts,

agreements and licenses of a non-utility character. Of the purchase price \$9,000 will be paid in cash and the remainder of \$6,000 is to be paid at the rate of \$200 or more a month plus interest on the unpaid balance of principal at the rate of 6% per annum. The deferred balance is to be secured by the execution of a chattel mortgage by the buyer to the seller on the two units of automotive equipment involved in the transfer.

The application states that the buyer desires to acquire said operative rights and other property and conduct the business under the name of Kernville Stage Company, and the seller desires to retain and conduct the business of transporting property under the name of Kernville Freight Line. With respect to the use of the firm names referred to, the Commission has stated that a certificate holder

"... may designate the business he operates pursuant thereto in any manner he deems appropriate without authority from this Commission. The use of a fictitious name involves a question of law as well as an exercise of individual choice or discrimination over which the Commission may not properly assume control. However, to insure administrative clarity and to avoid clerical confusion the Commission should be advised promptly of any changes in business designation by individuals holding certificates of public convenience and necessity." (1)

As justification for the authority sought, the application states in substance that there is now being constructed a dam at Isabella along the route of operation; that the business of the seller has steadily increased to the extent that he has reached his capacity for the conduct of the business, and to handle the anticipated future increases he must purchase additional equipment and employ additional personnel; and that in the event the Commission

(1) In re: Charles P. Slocombe, Decision No. 39216, 1st Supplemental Application No. 27250.

authorizes the transfer herein proposed he will have sufficient capital with which to purchase additional equipment necessary to conduct his operation for the transportation of property only. It is further stated that the buyer is financially able to purchase additional equipment and to employ necessary personnel to provide an adequate service for the transportation of passengers, baggage and express between the points involved.

After full consideration, it is the Commission's conclusion that applicants' request for authority to make the proposed transfer and the execution of the chattel mortgage is in the public interest and should be authorized. No public hearing is necessary. However, the authority herein granted shall not be construed as a finding of value of the properties herein authorized to be transferred.

John B. Burson 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 to the number of rights which may be given.

O R D E R

Application therefor having been made and after full consideration the Commission is of the opinion that the money, property or labor to be procured or paid for through the execution

of the chattel mortgage herein authorized is reasonably required by the purchaser for the purpose herein stated, which 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 ORDERED:

(1) That Roy Orrick may, after the effective date hereof, and on or before March 15, 1948, sell and transfer to John B. Burson, and the latter may purchase and acquire the two units of automotive equipment referred to in the opinion hereof and an operative right as a passenger stage corporation, as defined in Section 2-1/4 of the Public Utilities Act, for the transportation of passengers, baggage and shipments of express weighing not in excess of 100 pounds each on passenger carrying vehicles only, between Bakersfield and Kernville and Onyx and intermediate points via Kern River Power House, Isabella, Democrat Hot Springs and Borel Power House as created by Decision No. 17888 in Application No. 13258 and Decision No. 22816 in Application No. 16593. Such sale and transfer shall be made pursuant to the terms and conditions of the agreement of sale on file in this proceeding which Roy Orrick and John B. Burson may execute and deliver for the purpose of consummating said sale and transfer. John B. Burson may execute a chattel mortgage in, or substantially in, the same form as a chattel mortgage on file in this proceeding to secure the payment of \$6000 of the purchase price of the properties herein authorized to be transferred.

(2) That applicants shall comply with the provisions of General Orders Nos. 79 and 80 and Part IV of General Order No. 93-A, by filing in triplicate and concurrently making effective appropriate tariffs and time tables within 60 days from the date hereof and on

not less than 5 days' notice to the Commission and the public.

(3) That the authority herein granted will become effective when John B. Furson has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is twenty-five dollars (\$25).

Dated at San Francisco, California, this 22nd day of December, 1947.

Harold S. Hula

Justus J. Gallen

Grant K. Riddle

R. J. [unclear]

COMMISSIONERS

