

ORIGINAL

Decision No. 44654

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of N. JACK BENSON and ELLA S. )  
BENSON, partners, doing business )  
as BENSON TOURS, BORREGO SPRINGS, )  
to sell, and BENSON TOURS BORREGO )  
SPRINGS, INC., a corporation, to )  
purchase operating rights and )  
properties of a passenger stage )  
corporation for the transportation )  
of persons and their baggage between )  
Borrego Springs and Brawley, Julian, )  
San Diego, and Los Angeles. )

Application No. 31108

O P I N I O N

This is an application for an order authorizing N. Jack Benson and Ella S. Benson, partners doing business as Benson Tours, Borrego Springs, and hereinafter referred to as Sellers, to transfer passenger stage operative rights and equipment to Benson Tours Borrego Springs, Inc., a corporation, and authorizing said corporation to issue shares of its capital stock without par value.

By Decision No. 42585, dated March 8, 1949, the Commission granted to Sellers a certificate of public convenience and necessity authorizing the establishment and operation of service for the transportation of persons and their baggage between Borrego Springs, on the one hand, and Brawley, Julian, San Diego and Los Angeles, on the other hand, and of a sightseeing service between Borrego Springs, on the one hand, and Mt. Laguna, Idyllwild, Palm Springs, Palomar Mountain Observatory, Split Mountain Canyon,

Coyote Canyon, and Painted Desert-Badlands, on the other hand, subject to the restrictions set forth in said decision.

It appears that Sellers now desire to incorporate their business and accordingly have made arrangements to transfer the certificate and their operative properties to a new corporation which they have caused to be organized for the purpose of receiving such certificate and properties, and thereafter of continuing the service. It is the intention of applicants that stock of the new corporation be issued to Sellers on the basis of \$25 a share.

The 1949 annual report of Sellers shows that the properties include three passenger vehicles. Their investment in their assets, and their liabilities, as of February 1, 1950, are shown in Exhibit C attached to the application as follows:

<u>Assets</u>		
Cash in bank		\$ 100.00
Miscellaneous equipment		458.00
Motor vehicles	\$8,183.00	
Less: Reserve for depreciation	<u>1,353.83</u>	<u>6,829.17</u>
Total assets		<u>\$7,387.17</u>
<u>Liabilities</u>		
Contracts payable		\$3,979.95
Accounts payable		200.00
Net worth		<u>3,207.22</u>
Total liabilities and net worth		<u>\$7,387.17</u>

The order herein will authorize the new corporation to issue 128 shares of stock without a stated par value. The authority thus granted shall not be construed to be a finding of the value of the properties herein authorized to be transferred. Benson Tours Borrego Springs, Inc., a corporation, 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

The Commission having considered the above-entitled application and being of the opinion that a public hearing thereon is not necessary, that the application should be granted, as herein provided, that the money property, or labor to be procured or paid for through the issue of 128 shares of stock is reasonably required by Benson Tours Borrego Springs, Inc. for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

(1) N. Jack Benson and Ella S. Benson, after the effective date hereof and on or before October 30, 1950, may transfer their certificate of public convenience and necessity and their operative properties, to which reference is made in the preceding opinion, to Benson Tours Borrego Springs, Inc., hereinafter called Purchaser, on the above-stated terms.

(2) Benson Tours Borrego Springs, Inc., after the effective date hereof and on or before October 30, 1950, may issue not to exceed 128 shares of its common stock without par value, and may assume the payment of the indebtedness referred to in the balance sheet as of February 1, 1950, filed in this proceeding, in payment for the operative rights and properties of N. Jack Benson and Ella S. Benson, herein authorized to be transferred.

(3) Benson Tours Borrego Springs, Inc. shall file with the Commission a report as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

(4) That in providing service pursuant to the certificate herein transferred, there shall be compliance with the following service regulation:

Within sixty (60) days after the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public, Purchaser shall establish the service herein authorized and comply with the provisions of General Order No. 79 and Part IV of General Order No. 93-A, by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco California, this 15th day of August, 1950.

R. E. Indurana  
Justice Z. Cressen  
Thomas H. Lavelle  
Harold P. Hills  
Perennial P. Lott  
COMMISSIONERS