

ORIGINAL

Decision No. 53486

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of PAUL M. WILLIAMS, an individual doing business as KERNVILLE FREIGHT LINE, to sell, and H. J. JOHNSEN, an individual, to purchase property and operative rights for the transportation of freight between Bakersfield, California and Kernville and Onyx, California, and intermediate points.

Application No. 38235

In the Matter of the Application of RAY W. INNESS and JAMES C. CHRISTY, co-partners doing business under the fictitious firm name of KERNVILLE STAGE COMPANY, and H. J. JOHNSEN, an individual, to purchase property and operative rights for the transportation 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. 38236

O P I N I O N

In Application No. 38235, Paul M. Williams, an individual doing business as Kernville Freight Line, seeks authorization to transfer highway common carrier rights and equipment to H. J. Johnsen.

In Application No. 38236, Ray W. Innes and James C. Christy, co-partners doing business as Kernville Stage Company, seek authorization to transfer passenger stage rights and equipment to H. J. Johnsen.

The operative rights, both property and passenger, provide for transportation between Bakersfield and Kernville and Onyx. The highway common carrier rights were acquired by applicant Williams

under authorization granted by Decision No. 42730, dated April 19, 1949,^{1/} and the passenger stage rights were acquired by applicants Inness and Christy under authorization granted by Decision No. 45968, dated July 24, 1951.

It appears that the present operators desire to withdraw from their carrier activities and that they have made arrangements to sell and transfer their operative rights and equipment to H. J. Johnsen. The agreed price for the highway common carrier rights and equipment is \$7,000 and for the passenger stage rights and equipment, \$8,750, no part of either amount being allocated by the parties to the operative rights. As to the \$7,000 transaction, it appears that \$2,000 of the amount will be paid in cash and \$5,000 will be represented by a note payable in installments of \$100 a month, or more, with interest at the rate of 6% per annum on the unpaid balances. As to the other transaction, \$2,000 will be paid in cash and \$6,750 will be represented by a note payable in 30 monthly installments with interest at the rate of 6% per annum on the unpaid balances. The \$6,750 note will be secured by a chattel mortgage.

The applications show that H. J. Johnsen is qualified to assume the financial and operative obligations of the two lines. Accordingly, we are of the opinion, and so find, that the proposed transfers will not be adverse to the public interest.

Applicants are placed on 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

^{1/} The highway common carrier rights were created by Decision No. 17888, dated January 12, 1927, and Decision No. 22816, dated August 20, 1930, and were modified by Decision No. 32150, dated July 11, 1939.

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.

The action taken herein shall not be construed to be a finding of the value of the rights and equipment herein authorized to be transferred.

O R D E R

The Commission having considered the above-entitled applications and being of the opinion that public hearings are not necessary, that the money, property or labor to be procured or paid for by the issue of notes herein authorized is reasonably required for the purposes specified herein, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Paul M. Williams may transfer to H. J. Johnsen his highway common carrier operative rights and equipment under the terms and conditions set forth in Application No. 38235.
2. Ray W. Inness and James C. Christy may transfer to H. J. Johnsen their passenger stage operative rights and equipment under the terms and conditions set forth in Application No. 38236.
3. H. J. Johnsen may issue a note in the principal amount of \$5,000 to Paul M. Williams, or order, and may issue a note in the principal amount of \$6,750 to Ray W. Inness and James C. Christy, or order, and may execute a chattel mortgage to secure the payment

of the latter note, such notes to be issued for financing, in part, the cost of the operative rights and equipment herein authorized to be transferred.

4. Applicant shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

5. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants, as appropriate, shall supplement or reissue the tariffs and timetables on file with the Commission naming rates, rules, regulations and schedules governing the passenger stage operations here involved to show that Ray W. Inness and James C. Christy have withdrawn or canceled and H. J. Johnsen has adopted or established, as his own, said rates, rules, regulations and schedules.

6. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants, as appropriate, shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the highway common carrier operations here involved to show that Paul M. Williams has withdrawn or canceled and H. J. Johnsen has adopted or established, as his own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

7. The authority herein granted will become effective when H..J. Johnsen has paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.

Dated at San Francisco, California, this 31st day of July, 1956.

[Signature]
President
[Signature]
[Signature]
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Commissioners

