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ORIGINAL

Decision No. 72046

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
HEDWIG D. KALA dba MERRIMAC STAGE,
to sell and GEORGE W. HARRISON and
CARROLL W. BINDWELL to purchase, the
operative rights of MERRIMAC STAGE
and for temporary authority to operate
said operative rights.

Application No. 48994
(Filed December 6, 1966)

O P I N I O N

Hedwig D. Kala requests authority to sell and transfer, and George W. Harrison and Carroll W. Birdwell request authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier.

The certificate was granted by Decision No. 62798 in Application No. 43813 and authorizes the transportation of property between Oroville and Elk's Retreat and intermediate points. The agreed cash consideration is \$300.00. As of December 5, 1966, applicant buyers indicated a combined net worth in the amount of \$23,100.00.

It is alleged that applicant seller's transportation service has been performed in conjunction with a mail service, which was discontinued on August 17, 1966, when the mail contract expired. It is further alleged that applicant seller is unable to continue the freight operation because of poor health.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary.

George W. Harrison and Carroll W. Birdwell are hereby 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 permissive aspect, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before August 1, 1967, Hedwig D. Kala may sell and transfer, and George W. Harrison and Carroll W. Birdwell may purchase and acquire, the operative right referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, George W. Harrison and Carroll W. Birdwell shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

3. George W. Harrison and Carroll W. Birdwell shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that they have adopted or established, as their own, said rates and rules. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. 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-A.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, George W. Harrison and Carroll W. Birdwell shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. In conducting service pursuant to the authority herein acquired applicant buyers may depart from the minimum rates to the extent authorized by Decision No. 71900 in Case No. 5432, Petition for Modification No. 414.

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

Dated at San Francisco, California, this 21st day of FEBRUARY, 1967.

W. L. Mitchell
President

Stalham to Bernard

August

William Lyons - Jr.

Fred P. M. ...
Commissioners