

ORIGINAL

Decision No. 73203

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of)
))
KOPECKY CORPORATION, a)
California corporation, and)
KENNETH JAMES KOPECKY)
))
for authority to sell and issue)
stock and stock certificates,)
to sell utility property and to)
transfer operative rights in)
exchange for stock.)

Application No. 49682
Filed September 21, 1967

O P I N I O N

This is an application for an order of the Commission (1) authorizing Kenneth James Kopecky to transfer a passenger stage corporation certificate of public convenience and necessity, together with related assets, to Kopecky Corporation and (2) authorizing the latter, in acquiring said assets, to assume liabilities and to issue 1,000 shares of its no par value common stock at \$10 per share.

Kenneth James Kopecky, doing business as San Diego-Mammoth Ski Bus, operates as a passenger stage corporation pursuant to the certificate of public convenience and necessity granted by Decision No. 70482, dated March 22, 1966, in Application No. 47307, as modified by Decision No. 72660, dated June 27, 1967, in Application No. 49318. Said certificate authorizes the transportation of passengers and their baggage

to and from specified locations in the Cities of San Diego and San Bernardino on the one hand, and Mammoth Mountain Recreation Area in the County of Mono on the other hand, on weekends only from approximately November 15 to May 15 of the following year.

The June 30, 1967 balance sheet pertaining to the operations, attached to the application as a part of Exhibit A, shows the following:

<u>Assets</u>	
Cash in bank	\$ 9,390.73
Accounts receivable	404.90
Vehicles - after depreciation	15,378.22
Equipment - after depreciation	849.46
Prepaid expenses	<u>3,521.90</u>
Total	<u>\$29,545.21</u>
<u>Liabilities and Capital</u>	
Accounts payable	\$ 169.73
Contracts payable	18,963.86
Capital	<u>10,411.62</u>
Total	<u>\$29,545.21</u>

In the present proceeding Kenneth James Kopecky proposes to transfer the certificate of public convenience and necessity, together with two buses and other assets, to Kopecky Corporation, a California corporation organized on or about April 18, 1967. The corporation proposes to acquire said assets, subject to existing liabilities, and to issue 1,000 shares of its no par value common stock at \$10 per share in exchange for the assets to be acquired and liabilities to be assumed. Any excess over the \$10,000 aggregate stated value of the common stock will be credited to paid-in surplus.

The Commission has considered this matter and finds that: (1) the proposed transactions will not be adverse to the public interest; (2) the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein; and (3) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary.

On the basis of the foregoing findings we conclude that the application should be granted. The action taken herein shall not be construed as a finding of value of the properties to be transferred.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Kenneth James Kopeccky, doing business as San Diego-Mammoth Ski Bus, and the issuance of a certificate to Kopeccky Corporation.

Kopeccky Corporation is 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.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1967, Kenneth James Kopeccky may sell and transfer, and Kopeccky Corporation may purchase and acquire, the passenger stage corporation certificate of public convenience and necessity and other assets referred to in this proceeding.
2. Kopeccky Corporation, in acquiring said certificate and other assets, may assume the liabilities and obligations referred to herein, and may issue and sell not exceeding 1,000 shares of its no par value common stock at a stated value of \$10 per share.
3. Kopeccky Corporation shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.
4. Within thirty days after the consummation of the transfer herein authorized, Kopeccky Corporation 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.
5. Kopeccky Corporation shall amend or reissue the tariffs and timetables on file with the Commission, naming rates and rules governing the passenger stage operations herein to show that Kenneth James Kopeccky has withdrawn or

canceled, and Kopecky Corporation has adopted or established, as its own, said rates and rules. The tariff and timetable filings shall be made effective not earlier than ten days after the date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the consummation of the transfer herein authorized. The tariff and timetable filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98-A.

6. On or before the end of the third month after the consummation of the transfer as herein authorized, Kopecky Corporation 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 transferor for the period commencing with the first day of the current year to and including the effective date of the transfer.

7. In the event the transfer authorized in Paragraph No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Kopecky Corporation authorizing it to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

8. The certificate of public convenience and necessity granted in Paragraph No. 7 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 70482, as modified by Decision No. 72660, which certificate shall be revoked effective concurrently with the effective date of the tariff filings required by Paragraph No. 5 hereof.

9. In providing service pursuant to the certificate herein granted, Kopecky Corporation shall comply with and observe the following service regulations:

- a. Within thirty days after the date hereof, Kopecky Corporation shall file a written acceptance of the certificate herein granted. The company is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-A and insurance requirements of the Commission's General Order No. 101-B. Failure to comply with and observe the safety rules, or the provisions of General Orders Nos. 98-A or 101-B, may result in a cancellation of the operating authority granted by this decision.
- b. Kopecky Corporation shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

10. The effective date of this order is the date hereof.

Dated at San Francisco, California,
this 17th day of OCTOBER, 1967.

P. E. Marshall
President

William L. Bennett

August

William L. Bennett

Shed P. Morrissey
Commissioners

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges applicable thereto.

All changes and amendments as authorized by the Public Utilities
Commission of the State of California will be made as revised
pages or added original pages.

Issued under authority of Decision No. 73203
dated Oct. 17, 1967, of the Public Utilities
Commission of the State of California, in
Application No. 49682.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS, AND SPECIFICATIONS.

Kopecky Corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage between the San Diego Ski Chalet located at 4004 Midway Drive in the City of San Diego and Pratt Bros. Sporting Goods Store, 372 W. Highland Avenue, San Bernardino on the one hand, and the Mammoth Mountain Recreation Area on the other hand, over and along the route hereinafter described, subject to the following provisions:

- (a) Service shall be limited to the transportation of passengers destined to or originating at points in the Mammoth Lakes Recreation Area located on Mammoth Mountain Road commencing at approximately four miles west of Mammoth Junction and extending to the Mammoth Mountain Inn.
- (b) When route descriptions are given in one direction, they apply to operation in either direction, unless otherwise indicated.
- (c) Motor vehicles may be turned at termini or intermediate points, in either direction, at intersections of streets or by operating around a block contiguous to such intersections, in accordance with local traffic regulations.
- (d) Service shall be operated on weekends only from approximately November 15 to May 15 of the following year.

Issued by California Public Utilities Commission.

Decision No. 73203, Application No. 49682.

SECTION 2. ROUTE DESCRIPTIONSan Diego, San Bernardino - Mammoth Mountain Inn

Commencing at the San Diego Ski Chalet located at 4004 Midway Drive in the City of San Diego, thence via city streets to U. S. Highway 395, along U. S. Highway 395, thence via city streets to the Pratt Bros. Sporting Goods Store, 372 W. Highland Avenue, San Bernardino, return to U. S. Highway 395 to Mammoth Junction, thence via Mammoth Mountain Road to the Mammoth Mountain Inn.

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