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ORIGINAL

Decision No. 74698

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:
 PERSHING L. REINER, doing business
 as LAGUNA TRANSIT, for authority to
 sell, and of ISHMEL D. SUMNER, EDISON
 D. SUMNER and T. DURBIN THOMPSON,
 doing business as LAGUNA TRANSIT, to
 purchase, a certificate of public
 convenience and necessity as a
 passenger stage corporation authoriz-
 ing service between points in the City
 of Laguna Beach, on the one hand and
 Three Arch Bay, on the other hand, and
 between points in the City of Laguna
 Beach, on the one hand, and Laguna Hills
 and Orange County Airport, on the other
 hand, pursuant to Sections 851-853 of
 the California Public Utilities Code.

Application No. 50348
(Filed June 24, 1968)

O P I N I O N

Pershing L. Reiner, doing business as Laguna Transit, seeks authority to sell and Ishmel D. Sumner, Edison D. Sumner and T. Durbin Thompson seek authority to purchase, pursuant to Sections 851-853 of the Public Utilities Code, the certificate of public convenience and necessity as a passenger stage corporation now held by Reiner. The three purchasers also propose to buy the motor vehicle equipment now operated by Reiner, and also they request authority to adopt the individual tariff of Reiner, doing business as Laguna Transit.

The seller holds a certificate of public convenience and necessity to operate as a passenger stage corporation over routes in South Laguna, North Laguna and between Laguna Beach via Laguna Hills to Orange County Airport as set forth in Appendix A attached hereto. This certificate was issued by the Commission in Decision No. 73687 in Application No. 49290. In addition applicant Reiner holds a Class A

Certificate as a Charter Party Carrier of Passengers, No. TCP-23-A. A separate transfer application has been filed concurrently with this application in order to have the charter party certificate transferred also.

The application relates that the purchase price for the certificate is \$3000 and the agreed purchase price for Reiner's three buses and miscellaneous equipment is \$15,890, which all applicants state to be a fair and reasonable price. Payment of \$3000 will be made upon authorization of the transfer and the balance will be paid in monthly installments of \$250. Applicant Reiner's total assets as of December 31, 1967 are stated to be \$18,460.56. It is also stated that he suffered a net loss of \$1,237.49 for the year 1967.

It is stated that applicants Sumner, Sumner, and Thompson will continue to operate the same passenger stage service as now conducted by Reiner. The application relates that Mr. Reiner can no longer perform the minor maintenance on the buses himself or drive on a regular basis. He also wishes to withdraw from the business because of the untimely loss of a son. The transferees each have had substantial business experience in passenger stage operations in that Edison D. Sumner and T. Durbin Thompson are now employed as drivers for Laguna Transit. Mr. Thompson has had thirty years experience in the business. Ishmel D. Sumner, the father of Edison D. Sumner, has been employed in transportation for many years, which includes bus and taxicab experience. Transferees will make no changes in service to the traveling public and will adopt the existing tariff of Laguna Transit.

Applicants relate that the only likely competitor, Laguna Limousine Service, has been served a copy of the application as well as the City of Laguna Beach and Orange County. The notice of this

application was published in the Commission's Daily Calendar on June 26, 1968. No protests have been received.

After consideration, the Commission finds that:

- (1) The proposed transfer would not be adverse to the public interest.
- (2) A public hearing is not necessary.

Ishmel D. Sumner, Edison D. Sumner and T. Durbin Thompson 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.

O R D E R

IT IS ORDERED that:

1. On or before November 1, 1968, Pershing L. Reiner may sell and transfer, and Ishmel D. Sumner, Edison D. Sumner and T. Durbin Thompson may purchase and acquire, the operative rights and property referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, Ishmel D. Sumner, Edison D. Sumner and T. Durbin Thompson 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. Ishmel D. Sumner, Edison D. Sumner and T. Durbin Thompson, doing business as Laguna Transit, shall amend or reissue the tariffs and timetables on file with the Commission, naming rates and rules governing the common carrier operations herein to show that Pershing L. Reiner, doing business as Laguna Transit, has withdrawn or canceled, and Ishmel D. Sumner, Edison D. Sumner and T. Durbin Thompson, doing business as Laguna Transit, have adopted or established as their own, said rates and rules. The tariff and timetable filings shall be made effective not earlier than ten days after the effective 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. Failure to comply with and observe the provisions of General Orders Nos. 79 and 98-A may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, Ishmel D. Sumner, Edison D. Sumner and T. Durbin Thompson 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 the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Ishmel D. Sumner, Edison D. Sumner and T. Durbin Thompson,

doing business as Laguna Transit, authorizing them 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.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 73687, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. In providing service pursuant to the certificate herein granted, Ishmel D. Sumner, Edison D. Sumner and T. Durbin Thompson shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. Applicants are placed on notice that, if they accept the certificate of public convenience and necessity herein granted, they 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. 93-A and insurance requirements of the Commission's General Order No. 101-B.

(b) Applicants shall maintain their 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 their operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 17th day of SEPTEMBER, 1968.

William J. Quinn
President
Arthur E. Gillette
William L. Bennett
Augusta
Karl P. Morrissey
Commissioners

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Appendix A

ISHMEL D. SUMNER, EDISON D.
SUMNER and T. DURBIN THOMPSON
doing business as
LAGUNA TRANSIT

Original Page 1

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY

Showing passenger stage operative rights, restrictions,
limitations, exceptions, 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. **74698** dated
September 17, 1968, of the Public
Utilities Commission of the State of California, in
Application No. 50348.

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Appendix A

ISHMEL D. SUMNER, EDISON D.
SUMNER and T. DURBIN THOMPSON
doing business as
LAGUNA TRANSIT

Original Page 2

SECTION 1 GENERAL AUTHORIZATIONS, RESTRICTIONS,
LIMITATIONS AND SPECIFICATIONS

Ishmel D. Sumner, Edison D. Sumner and T. Durbin Thompson, doing business as Laguna Transit, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to transport passengers between points in the City of Laguna Beach, on the one hand, and Three Arch Bay, on the other hand, and between points in the City of Laguna Beach, on the one hand, and Laguna Hills and Orange County Airport, on the other hand, and intermediate points over and along the routes hereinafter described, subject to the following conditions:

- (a) Motor vehicles may be turned at termini and 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.
- (b) Passengers transported on the Laguna Beach-Laguna Hills-Orange County Airport service, shall be picked up and discharged only at points and places to be named in applicant's tariff.

Issued by California Public Utilities Commission.

Decision No. 74698, Application No. 50348.

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Appendix A

ISHMEL D. SUMNER, EDISON D.
SUMNER and T. DURBIN THOMPSON
doing business as
LAGUNA TRANSIT

Original Page 3

SECTION 2 ROUTE DESCRIPTIONS

South Laguna:

Commencing at the terminal (213 Ocean Avenue, Laguna Beach), thence along Ocean Avenue, Third Street, Forest Avenue, Glencyre Street, Diamond Street, Coast Boulevard, to Crown Valley Parkway (Three Arch Bay). Return via Coast Boulevard, Ocean Avenue to terminal.

Also: From the intersection of Coast Boulevard and Cress Street, thence along Cress Street, Temple Terrace, Thalia Street to Coast Boulevard.

North Laguna:

Commencing at the terminal (213 Ocean Avenue, Laguna Beach), thence along Ocean Avenue, Third Street, Broadway, Cliff Drive, Rosa Bonheur Drive, Cypress Drive, Monterey Drive, Hawthorne Road, High Drive, Coast Boulevard to Ledroit Street. Return via Coast Boulevard, Ocean Avenue to terminal.

Laguna Beach-Laguna Hills-Orange County Airport

Commencing at the terminal (213 Ocean Avenue, Laguna Beach), thence along Ocean Avenue, Third Street, Broadway, Laguna Canyon Road, El Toro Road, Paseo de Valencia, (Laguna Hills), Via Estrada, Avenida de la Luise, (Leisure World official bus stop), Laguna Hills, Calle de la Plate, Paseo de Valencia, Valencia Avenue, Culver Drive, Lane Road, Jamboree Road, Campus Drive, MacArthur Boulevard to the Orange County Airport. Returning via the reverse of the above route.

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