

ORIGINAL

Decision No. 76033

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)
)
 ROBERT E. WAITE and RICHARD L.)
 STINSON, co-partners doing)
 business as KERNVILLE STAGE &)
 FREIGHT LINES, for authority to)
 sell and KERNVILLE STAGE &)
 FREIGHT LINES, a California)
 corporation to purchase utility)
 properties and operative rights)
 and for authority to issue shares)
 as and for the purchase price)
 thereof.)
 _____)

Application No. 51226
Filed July 7, 1969

O P I N I O N

Robert E. Waite and Richard L. Stinson, doing business as Kernville Stage and Freight Lines, request an order of the Commission authorizing them to transfer their highway common carrier and passenger stage operative rights, together with related assets, to Kernville Stage and Freight Lines, Inc., and the latter, in acquiring said assets, seeks authority to assume liabilities and to issue 57,890 shares of its \$1 par value capital stock.

The transferors conduct highway common carrier and passenger stage operations in portions of Kern County pursuant to operative rights acquired in accordance with Decision No. 68621,

dated February 16, 1965, in Application No. 47239, as subsequently amended with respect to highway common carrier operations. In addition, they operate under the jurisdiction of this Commission as a highway contract carrier and a radial highway common carrier. For the year 1968, the reported total operating revenues and net income amount to \$83,669 and \$29,779, respectively.

In the present proceeding, Robert E. Waite and Richard L. Stinson propose to transfer said highway common carrier and passenger stage operative rights, together with related assets, to Kernville Stage and Freight Lines, Inc., a California corporation incorporated on or about April 25, 1969. The corporation proposes to issue 57,890 shares of its \$1 par value capital stock in exchange for said operative rights and related assets, subject to liabilities.

Exhibit B, attached to the application, shows that as of March 31, 1969, the total assets of the enterprise amounted to \$92,137, which were offset by liabilities and net worth in respective amounts of \$34,247 and \$57,890. Among the assets are dock rights amounting to \$39,809.

After consideration the Commission finds that: (1) the proposed transfer and assumption of liabilities will not be adverse to the public interest; (2) the proposed issue of \$39,809 aggregate par value of capital stock against dock rights is improper; (3) 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 (4) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude that the application should be (a) denied with respect to \$39,809 aggregate par value of the proposed stock issue, and (b) granted in all other respects. A public hearing is not necessary.

The action taken herein shall not be construed as a finding of the value of the operative rights and other assets to be transferred. So far as the rights are concerned, the authorization herein granted is for the transfer of the highway common carrier and passenger stage operative rights only. Any transfer of permitted operative rights must be the subject of a separate application or applications.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Robert E. Waite and Richard L. Stinson, doing business as Kernville Stage and Freight Lines, and the issuance of a certificate in appendix form to Kernville Stage and Freight Lines, Inc.

Kernville Stage and Freight Lines, Inc. 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, 1969, Robert E. Waite and Richard L. Stinson may sell and transfer, and Kernville Stage and Freight Lines, Inc. may purchase and acquire, the operative rights and property referred to in the application.
2. Kernville Stage and Freight Lines, Inc., in acquiring said operative rights and property, may assume the liabilities referred to in this proceeding, and may issue not exceeding 18,081 shares of its \$1 par value capital stock.
3. Kernville Stage and Freight Lines, Inc. 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, Kernville Stage and Freight Lines, Inc. 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. Kernville Stage and Freight Lines, Inc. 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 it 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, 80-A and 98-A. Failure to comply with and observe the provisions of General Orders Nos. 79, 80-A and 98-A may result in a cancellation of the operating authority granted by this decision.

6. In the event the transfer authorized in Paragraph No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Kernville Stage and Freight Lines, Inc. authorizing it to operate as a highway common carrier and a passenger stage corporation as defined in Sections 213 and 226 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A and Appendix B, respectively, attached hereto and made a part hereof.

7. The certificate of public convenience and necessity granted in Paragraph No. 6 of this order shall supersede the certificate of public convenience and necessity acquired pursuant to Decision No. 68621 as amended by Decisions Nos. 74082 and 74541, which certificate is revoked effective concurrently with the effective date of the tariff filings required by Paragraph No. 5 hereof.

8. Within thirty days after the date hereof, Kernville Stage and Freight Lines, Inc. shall file a written acceptance of the certificate herein granted. Kernville Stage and Freight Lines, Inc. 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 Orders Nos. 100-E and 101-C.

9. Kernville Stage and Freight Lines, Inc. 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. Kernville Stage and Freight Lines, Inc. shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If Kernville Stage and Freight Lines, Inc. elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

11. The application, insofar as it seeks authority to issue and sell 39,009 shares of capital stock in excess of the 18,081 authorized by Paragraph No. 2 hercof, is denied.

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

Dated at San Francisco, California,
this 19th day of AUGUST, 1969.

William Adams, Jr.
President

August

Neil P. Morrison
[Signature]

[Signature]
Commissioners

Kernville Stage and Freight Lines, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to conduct operations as a highway common carrier for the transportation of freight excluding trailer coaches and campers including integral parts and contents when contents are in the trailer coach or camper, upon and along the route between Bakersfield, Kernville and Onyx including all intermediate points.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 76033, Application No. 51226.

Kernville Stage and Freight Lines, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate as a passenger stage corporation and to transport passengers, their baggage and shipments of express weighing 100 pounds or less in passenger-carrying vehicles between Bakersfield, Kernville, and Onyx and intermediate points.

End of Appendix B

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Decision No. 76033, Application No. 51226.