

Decision No. 76545

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of NEWTON S. DAVIS and DONALD F.)
WALLACE for Authority to Transfer)
NEWTON S. DAVIS Passenger Stage)
Certificate operating between San)
Jose and Mt. Hamilton, Santa Clara)
County, to DONALD F. WALLACE under)
the provisions of Public Utility)
Code.)

Application No. 51449
(Filed October 31, 1969)

O P I N I O N

Newton S. Davis requests authority to sell and transfer and Donald F. Wallace requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a passenger stage corporation and certain property.

The certificate was granted by Decision No. 72434, dated September 15, 1958, in Application No. 40315 and authorizes the transportation of passengers and shipments of express between San Jose and Mt. Hamilton. The agreed consideration is \$5,000, payable as follows: \$4,000 cash and \$1,000 secured by a promissory note with interest at the rate of 10 percent per annum to be paid in ten monthly installments. A value of \$3,000 is placed upon the certificate and a value of \$2,000 is placed upon a 1966 International truck.

Applicant purchaser is an employee of applicant seller and is familiar with the operation. As of October 30, 1969, applicant purchaser indicated a net worth in the amount of \$3,400.

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

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

Donald F. Wallace 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 the 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 May 1, 1970, Newton S. Davis may sell and transfer, and Donald F. Wallace 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, Donald F. Wallace 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. Donald F. Wallace 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 he has adopted or established, as his 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, Donald F. Wallace 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. Within thirty days after the transfer herein authorized is consummated, Donald F. Wallace shall file a written acceptance of the certificate. Donald F. Wallace is placed on notice that, if he accepts such certificate, he 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-C.

6. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Donald F. Wallace, authorizing him 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.

7. The certificate of public convenience and necessity granted in paragraph 6 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 72434 which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

8. Donald F. Wallace shall maintain his 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 his 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 16th day of DECEMBER, 1969.

William J. Lyons, Jr.
President

Richard J. [unclear]

[unclear]

James L. [unclear]
Commissioners

HW

Appendix A

DONALD F. WALLACE
doing business as
MT. HAMILTON STAGE LINE

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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. 76545, dated
December 16, 1969, of the Public Utilities Commission
of the State of California, on Application No. 51449.

Donald F. Wallace, doing business as Mt. Hamilton Stage Line, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers, baggage (not exceeding 100 pounds in weight) and shipments of express (not exceeding 500 pounds in weight) between San Jose and Mt. Hamilton and intermediate points over the following route:

Commencing at the Greyhound Depot in the City of San Jose thence via Almaden Avenue, East Santa Clara Street, Alum Rock Avenue and Mt. Hamilton Road to Mt. Hamilton Lick Observatory.

Restriction: No local passengers with origin and destination both between San Jose and Linda Vista shall be transported.

Issued by California Public Utilities Commission.

Decision No. 76545, Application No. 51449.