

Decision No. 76683

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of ROBERT E. JAMES and EDWARD)
 W. SHORT, dba GOLDEN GAZELLE LINES,)
 and of BUFORD L. SMITH, dba SMITH'S)
 CHARTER BUS SERVICE, to transfer a)
 certificate of public convenience)
 and necessity and assets of ROBERT)
 E. JAMES and EDWARD W. SHORT, dba)
 GOLDEN GAZELLE LINES.)

Application No. 51450
 (Filed October 30, 1969)

O P I N I O N

Robert E. James and Edward W. Short, doing business as Golden Gazelle Lines, request authority to sell and transfer and Buford L. Smith, doing business as Smith's Charter Bus Service, requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a passenger stage corporation and the 37-passenger 1947 GMC 3703 bus used in said service.

The certificate was granted by Decision No. 74233 issued June 11, 1968, in Application No. 50163 and authorizes operation as a passenger stage corporation between the cities of Newark, Fremont, Union City and Hayward, on the one hand, and the United Air Lines Maintenance Base located at or near the San Francisco International Airport, on the other hand. The agreed cost consideration for the certificate and the bus is the sum of \$5,000.

The balance sheet as of July 31, 1969 of Smith's Charter Bus Service shows total assets of \$157,017.75, liabilities of \$77,667.46 and a net worth of \$79,350.29; and the income statement for the period January 1, 1969 through July 31, 1969 shows a net profit from operations of \$10,729.35.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary. The order which follows will provide, in the event the transfer is consummated, for the issuance of a certificate in appendix form to Buford L. Smith, doing business as Smith's Charter Bus Service, and the revocation of the operating authority granted to Robert E. James and Edward W. Short, doing business as Golden Gazelle Lines, by Decision No. 74233 issued June 11, 1968 in Application No. 50163.

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

Buford L. Smith, doing business as Smith's Charter Bus Service, 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 cancelled 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 June 1, 1970, Robert E. James and Edward W. Short, doing business as Golden Gazelle Lines, may sell and transfer,

and Buford L. Smith, doing business as Smith's Charter Bus Service, 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, purchaser 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. Purchaser shall amend or reissue the tariffs and timetables on file with the Commission, naming rates, rules and schedules 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. In the event that the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Buford L. Smith, 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.

5. The certificate of public convenience and necessity granted in paragraph 4 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 74233 issued June 11, 1968, in Application No. 50163, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

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

7. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate. Purchaser 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.

8. Purchaser 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
20th day of JANUARY, 1970.

William J. Brown
President

J. P. Brown
G. Brown

Vernon L. Stinson
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

Section 1. General Authorizations, Restrictions, Limitations
and Specifications.

Buford L. Smith, doing business as Smith's Charter Bus Service, by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers and their baggage on passenger-carrying vehicles between the United Air Lines Maintenance Base at or near the San Francisco International Airport, on the one hand, and the cities of Newark, Fremont, Union City and Hayward, including all points and places within a radius of three air miles of the corporate limits of any of said cities, on the other hand, over the routes hereinafter described, subject to the following provisions:

- (a) No passengers shall be transported except those having point of origin or destination at said United Air Lines Maintenance Base.
- (b) All points and places located within the unincorporated areas referred to hereinabove shall take the same fare as the closest city.

Section 2. Route Description.

Commencing at any point within the Fremont-Newark service area, thence to Union City service area, thence to the Hayward service area, thence to the United Air Lines Maintenance Base at or near the San Francisco International Airport, via any and all appropriate routes, and return via the same routing.

Issued by California Public Utilities Commission.

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