

ORIGINAL

Decision No. 79560

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 COMMUNITY ENTERPRISES, INC., a)
 California corporation, to sell)
 and FRANK D. MATTHEWS, an individual)
 doing business as F. MATTHEWS BUS)
 CO. for authority to purchase a)
 certificate of public convenience)
 and necessity.)

Application No. 52910
 (Filed October 5, 1971)

O P I N I O N

This is an application by Community Enterprises, Inc. (hereinafter referred to as Community) for authority to transfer part of its certificate of public convenience and necessity to operate as a passenger stage corporation to Frank D. Matthews, doing business as F. Matthews Bus Co. (hereinafter referred to as Matthews).

Community holds a certificate of public convenience and necessity to operate between Santa Ana and the El Toro Marine Base as part of its authority. The verified application avers that Matthews has been a driver of school and charter busses for more than six years and for the past two years has been in the business of purchasing busses and leasing them to church organizations. Matthews presently owns 21 units of operating equipment, eight of which are suitable for the service comprehended by this application.

The parties entered into an agreement, subject to approval by this Commission, that Community would transfer to Matthews that part of the aforesaid certificate, the goodwill attendant thereto, and two busses for Matthews assuming the liabilities of Community which are approximately \$6,900. The record indicates that Matthews has an equity in the aforesaid operating equipment of approximately \$20,000.

Copies of the application were served on the County of Orange, City of Santa Ana and South Coast Transit. No protests to the application have been received by the Commission.

The Commission makes the following findings and conclusions:

Findings of Fact

1. A public hearing is not necessary in this matter.
2. The transfer of Community's certificate of public convenience and necessity to operate as a passenger stage corporation between Santa Ana and El Toro Marine Base to Matthews would not be adverse to the public interest.
3. Matthews has the ability, including financial ability, to conduct operations under the authority herein authorized to be transferred.
4. To avoid confusion among the public and to assist the Commission in its regulatory functions the rights herein authorized to be transferred should be restated in appendix form.

Conclusions of Law

1. Community should be authorized to transfer to Matthews the passenger stage operating rights and property heretofore set forth.
 2. The operating rights herein authorized to be transferred should be restated in appendix form.
- Frank D. Matthews 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 September 1, 1972, Community Enterprises, Inc. may sell and transfer, and Frank D. Matthews 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 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, 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 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 Frank D. Matthews, 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.

6. Appendix A of Decision No. 76988 is amended by incorporating therein First Revised Page 2 and First Revised Page 4, attached hereto, in revision of Original Page 2 and Original Page 4, respectively, which are attached hereto as Appendix B.

7. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate herein granted. Purchaser is placed on notice that, if he accepts the certificate of public convenience and necessity herein granted, 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

A. 52910 vo

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 4th
day of JANUARY, 1972.

[Signature]
Chairman
[Signature]
[Signature]
[Signature]
Commissioners

JR

Appendix A

FRANK D. MATHEWS
dba
F. MATTHEWS BUS CO.

Original Page 1

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. 79560
dated JAN 4, 1972, of the Public Utilities
Commission of the State of California, on Application No. 52910.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS

Frank D. Matthews, doing business as F. Matthews Bus Co., is authorized to transport passengers:

1. Between the City of Santa Ana, on the one hand, and the U.S. Marine Base near El Toro, on the other hand, and intermediate points.
2. Operations shall be conducted 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) When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.

SECTION 2. ROUTE DESCRIPTIONS

Route No. 1. Santa Ana - Tustin - El Toro

Commencing at 220 E. Third Street (Depot); thence along Spurgeon Street, First Street, "D" Street, Laguna Canyon Road, Red Hill Avenue, Irvine Boulevard, Trabuco Road to its intersection with Wake Avenue.

Also:

- (a) From the intersection of Irvine Boulevard and Sand Canyon Road; thence along Sand Canyon Road, Trabuco Road to El Toro Marine Air Station Main Gate No. 1.
- (b) Along Red Hill Avenue between First Street and Red Hill Avenue.
- (c) Along Red Hill Avenue between the Santa Ana Freeway and Valencia Avenue.

Issued by California Public Utilities Commission.

Decision No. 79560, Application No. 52910.

Appendix A COMMUNITY ENTERPRISES, INC.
(Dec. 76988) (a corporation)

First Revised Page 2
Cancels
Original Page 2

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS

Community Enterprises, Inc., a corporation, is authorized
to transport passengers:

1. Between the City of San Clemente, on the one hand, and
Camps San Onofre, Horno, San Mateo, Talega and
Christianitos, on the other hand, over and along the
routes hereinafter described, subject to the following
condition:

All passengers originating at or destined to
the City of San Clemente shall originate at
or be destined to Camp San Onofre, Camp Horno,
Camp San Mateo, Camp Talega or Camp Christianitos.

2. Between Disneyland, City of Anaheim, on the one hand,
and Camp San Onofre, Horno, San Mateo, Talega and
Christianitos, on the other hand, over and along the
route hereinafter described, subject to the following
condition:

All passengers originating at or destined to
Disneyland, City of Anaheim, shall be destined
to or originate at Camp San Onofre, Camp Horno,
Camp San Mateo, Camp Talega or Camp Christianitos.
Such service shall be operated on an "on-call"
basis, subject to a minimum of 12 passengers.

- *3. Deleted - Authority transferred to Frank D. Matthews
(dba F. Matthews Bus Co.)

Issued by California Public Utilities Commission.

*Deleted by Decision No. 79560, Application No. 52910.

Appendix A. COMMUNITY ENTERPRISES, INC.
(Dec. 76988) (a corporation)

First Revised Page 4
Cancels
Original Page 4

SECTION 2. ROUTE DESCRIPTIONS (Continued)

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Authority on Original Page 4 deleted.

Issued by California Public Utilities Commission.

*Deleted by Decision No. 79560, Application No. 52910.