

ORIGINALDecision No. 80072

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
 of KERNVILLE STAGE AND FREIGHT)
 LINES, INC., a California)
 corporation, to transfer a)
 certificate of public)
 convenience and necessity to)
 KERNVILLE STAGE & FREIGHT LINES)
 OF CALIFORNIA, a California)
 corporation, and of KERNVILLE)
 STAGE & FREIGHT LINES OF)
 CALIFORNIA, a California)
 corporation, to acquire said)
 certificate of public convenience)
 and necessity, to issue stock, to)
 assume certain equipment obligations)
 and to issue a promissory note.)

Application No. 53258
 (Filed April 11, 1972)
 and Amendment
 (Filed May 8, 1972)

O P I N I O N

Kernville Stage and Freight Lines, Inc. seeks an order of the Commission authorizing it to sell and transfer its certificates of public convenience and necessity, together with related assets, to Kernville Stage & Freight Lines of California, and the latter seeks authority to assume equipment obligations and to issue and sell 1,000 shares of its \$10 par value capital stock.

The transferor conducts operations in a portion of Kern County as a highway common carrier and a passenger stage corporation pursuant to the certificates of public convenience and necessity granted by Decision No. 76033, dated August 19, 1969, in Application No. 51226. In addition, it possesses dump truck carrier, highway contract carrier and radial highway common carrier permits issued by this Commission. For the year 1971, the carrier reports total operating revenues amounting to \$87,395.

In the present proceeding, Kernville Stage and Freight Lines, Inc. proposes to transfer its highway common carrier and passenger stage corporation operative rights, together with goodwill, motor vehicle equipment, and office equipment and supplies, to Kernville Stage & Freight Lines of California, a California corporation incorporated on or about March 1, 1972. Applicants have agreed to a selling price of \$500 for said operative rights and \$1,500 for the goodwill. The agreed price for the motor vehicle equipment and office equipment and supplies is \$14,000 and the assumption by the transferee of not exceeding \$4,871.02 of existing obligations on the motor vehicle equipment. In addition, the transferee has agreed to pay \$21,000 for a covenant not to compete.

The transferee proposes to issue and sell 1,000 shares of its \$10 par value capital stock to Mr. Richard Pozas, and to use the \$10,000 proceeds for working capital. The application shows that Mr. Pozas is long experienced in for-hire motor carrier operations, and that in addition to being the sole shareholder, he would be the transferee's principal operating officer. Funds for the acquisitions would be advanced to the transferee on open account.

After consideration the Commission finds that:

1. The proposed transactions would not be adverse to the public interest.
2. The proposed stock issue is for a proper purpose.
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, which 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, as amended, should be granted. A public hearing is not necessary.

The action taken herein shall not be construed as a finding of the value of the properties 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 corporation certificates of public convenience and necessity 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 certificates presently held by Kernville Stage and Freight Lines, Inc. and the issuance of certificates in appendix form to Kernville Stage & Freight Lines of California.

Kernville Stage & Freight Lines of California 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 30, 1972, Kernville Stage and Freight Lines, Inc. may sell and transfer, and Kernville Stage & Freight Lines of California may purchase and acquire, the operative rights and property referred to in the application.

2. Kernville Stage & Freight Lines of California may issue and sell, at par for cash, not exceeding 1,000 shares of its \$10 par value capital stock to Mr. Richard Pozas, and shall use the proceeds for working capital.

3. Kernville Stage & Freight Lines of California may assume not exceeding \$4,871.02 of motor vehicle equipment obligations.

4. Kernville Stage & Freight Lines of California shall file with the Commission the report required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

5. Within thirty days after the consummation of the transfer herein authorized, Kernville Stage & Freight Lines of California 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.

6. Kernville Stage & Freight Lines of California 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 five days after the effective date of this order on not less than five 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-Series and 98-A. Failure to comply with and observe the provisions of General Orders Nos. 79, 80-Series and 98-A may result in a cancellation of the operating authority granted by this decision.

7. On or before the end of the third month after the consummation of the transfer herein authorized, Kernville Stage & Freight Lines of California 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 Kernville Stage and Freight Lines, Inc. for the period commencing with the first day of the current year to and including the effective date of the transfer.

8. In the event the transfer authorized in Paragraph No. 1 hereof is consummated, certificates of public convenience and necessity are granted to Kernville Stage & Freight Lines of California 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.

9. The certificates of public convenience and necessity granted in Paragraph No. 8 of this order shall supersede the certificates of public convenience and necessity granted by Decision No. 76033, which certificates are revoked effective concurrently with the effective date of the tariff filings required by Paragraph No. 6 hereof.

10. Within thirty days after the transfer herein authorized is consummated, Kernville Stage & Freight Lines of California shall file a written acceptance of the certificates herein granted. Kernville Stage & Freight Lines of California

is placed on notice that, if it accepts the certificates 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 the insurance requirements of the Commission's General Orders Nos. 100-Series and 101-C.

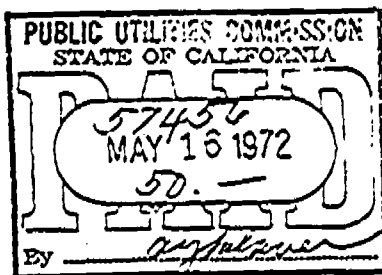
11. Kernville Stage & Freight Lines of California shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of 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.

12. Kernville Stage & Freight Lines of California 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 & Freight Lines of California elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

13. This order shall become effective when Kernville Stage & Freight Lines of California has paid the minimum fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.

Dated at San Francisco, California, this 16th day of MAY, 1972.

[Signature] Chairman
William L. Stinson Jr.
[Signature]
Vernon L. Stinson
[Signature] Commissioners



Kernville Stage & Freight Lines of California, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code 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. 80072, Application No. 53258.

Kernville Stage & Freight Lines of California, a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a passenger stage corporation as defined in Section 226 of the Public Utilities Code for the transportation of passengers, their baggage and shipments of express weighing 100 pounds or less in passenger-carrying vehicles, upon and along the route between Bakersfield, Kernville and Onyx including all intermediate points.

(END OF APPENDIX B)

Issued by California Public Utilities Commission.

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