

Decision No. 81558

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of WILLIS M. KLEINENBROICH, an individual doing business under the name MODESTO RIVERBANK OAKDALE STAGE LINE, (seller), authorizing him to sell, and STORER TRANSPORTATION SERVICE INC., a corporation, (purchaser), authorizing it to purchase, the passenger stage and express business of the applicant Willis M. Kleinenbroich dba Modesto Riverbank Oakdale Stage Line and his operative rights in respect thereto.

Application No. 53992
(Filed April 26, 1973)

O P I N I O N

Applicant Kleinenbroich has authority to transport passengers, baggage, and express shipments of 100 pounds or less as a passenger stage corporation between Modesto, Riverbank, and Oakdale in Stanislaus County. He also holds a certificate from the Interstate Commerce Commission (MC-15401) authorizing the transportation of passengers from any point on his route to any point in the United States.

Service is provided on five days a week, with a single round trip every morning and afternoon, starting in Modesto. The one-way distance is 16-1/2 miles; fares vary from a minimum of 25 cents to a 90 cent round-trip fare between Modesto and Oakdale. Service is provided with a 1946 29-passenger Flexible bus, a 1946 27-passenger Ford Transit bus, and a 1946 21-passenger Ford Transit bus. These vehicles are to be sold also, along with three used motors and an engine hoist. It is alleged that Kleinenbroich is 69 years of age and is selling out to go into retirement.

Purchaser is a California corporation engaged in business as a charter-party carrier of passengers and as an operator of school buses. It operates 52 buses and has been providing service in Merced,

Mariposa, and Stanislaus Counties for twenty-two years. A balance sheet dated December 31, 1972 shows a gross income of \$365,394, operating expenses of \$323,597, and a net income of \$41,797. Current assets total \$26,738 and fixed assets less depreciation \$178,135. Current liabilities are \$14,731.

The purchase price is \$13,500, to be paid in cash on the effective date of the transfer. The seller's P.U.C. and I.C.C. operating authority will be sold along with the vehicles and motors previously described. Applicants have filed an identical application with the Interstate Commerce Commission. Purchaser proposes to continue the operations of the seller and will adopt the latter's fares, schedules, rules, and regulations. It is alleged that there are no competing public passenger carriers operating over the route to be transferred.

After consideration the Commission finds with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment and that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Willis M. Kleinenbroich and the issuance of a certificate in appendix form to Storer Transportation Service, Inc.

Storer Transportation Service, Inc. is 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. 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 the effective date of this order, Willis M. Kleinenbroich may sell and transfer, and Storer Transportation Service, Inc. 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 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 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-Series and 98-Series. Failure to comply with and observe the provisions of General Orders Nos. 79-Series and 98-Series 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 Storer Transportation Service, Inc., a corporation, authorizing it 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. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by all prior decisions, which certificates are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

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 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-Series and insurance requirements of the Commission's General Order No. 101-Series.

8. Purchaser 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

A. 53992 mz

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.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this
3rd day of JULY, 1973.

James L. Sullivan
President
William J. Sullivan
J. P. Sullivan
Charles J. Sullivan
James L. Sullivan
Commissioners

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.

81558
Issued under authority of Decision No.
dated JUL 3 - 1973, of the Public Utilities Commission
of the State of California, on Application No. 53992.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

The certificate hereinafter noted supersedes all operative authority heretofore granted to Willis M. Kleinenbroich, dba Modesto Riverbank Oakdale Stage Line, predecessors.

Storer Transportation Service, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers, baggage, mail, and express between Modesto, Riverbank, and Oakdale, all in Stanislaus County and certain territories intermediate and adjacent thereto, over and along the routes hereinafter described, subject, however, to the authority of this Commission to change or modify said routes at any time and subject to the following provisions:

- (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.
- (c) The Transportation of baggage or express shall be on passenger-carrying vehicles and shall be incidental to the transportation of passengers and limited to a weight of not more than 100 pounds per shipment.

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SECTION 2. ROUTE DESCRIPTION.

A single route commencing at the Greyhound Bus Depot, 10th and G Streets, Modesto, California, thence running north on 10th Street to J Street, thence east on J Street to McHenry Avenue, thence northerly on McHenry Avenue, Modesto, to its junction with the Oakdale-Riverbank Highway (State Highway 108), thence continuing easterly on State Highway 108 to Riverbank and then to Oakdale. The terminal in Oakdale is located at Clark's Stage Depot, 116 N. Yosemite Avenue, Oakdale, California.

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