

ALJ/AVG/jt

Decision 90 09 074 SEP 25 1990

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Norman S. Burnett, doing business as)
B & B Commute Service, to transfer)
a certificate of public convenience)
and necessity to Burnett Industries,)
Inc., doing business as B & B)
Coaches, to acquire, pursuant to)
Section 1031 et seq. of the)
California Public Utilities Code.)

ORIGINAL

Application 90-03-022
(Filed March 19, 1990)

O P I N I O N

Norman S. Burnett, an individual, doing business as B & B Commute Service (seller), and Burnett Industries, Inc., a California corporation (buyer), seek to transfer from seller to buyer the certificate of public convenience and necessity which was issued by Decision (D.) 89213, dated August 8, 1978. A copy of the Sales Agreement dated February 1, 1990 is attached to the application. The business is to be sold from Norman Burnett to a corporation owned and controlled by his son. John W. Burnett, President of Burnett Industries, Inc., has operated the company known as B & B Commute Service since April 1, 1984. Norman Burnett has not been involved in the operation of the company since that time. John Burnett is interested in expanding the business and desires to purchase all assets and the business from his father.

The service is in operation as a passenger stage corporation carrying passengers between San Jose, Campbell, Cupertino, Sunnyvale, and Mountain View, on the one hand, and the United Air Lines Maintenance Operations Center at San Francisco International Airport, on the other hand.

Buyer will continue to render service to the public in compliance with the requirements of the certificate of public

convenience and necessity. Buyer requests that a fare increase be authorized from the current rate of \$17 per week to \$23 per week, paid in advance.

Buyer has the necessary financial ability to continue the service now operated by seller. Buyer proposes to use a 1975 GMC P8M 4905A coach to service the routes. Buyer will purchase or lease additional vehicles if required at a later date should the need arise. Buyer has sufficient ability to purchase or lease additional vehicles.

Seller has been servicing the stops covered by the certificate herein sought to be transferred for a period of about 12 years. Buyer is ready, willing, and able to purchase the certificate and carry on the operation, and the transfer is in the best interest of the public. The public will not be adversely affected by the granting of the authority to transfer the certificate.

No party has protested the application.

Findings of Fact

1. The transfer of the certificate to Burnett Industries, Inc. is in the best interest of the public.
2. The public will not be adversely affected by the granting of the authority to transfer the certificate.
3. The transferee has the ability and financial resources to perform the service to be transferred.
4. Buyer requests to increase its fare to \$23 per week, paid in advance.

Conclusions of Law

1. The proposed transfer is in the public interest and should be authorized. A public hearing is not necessary.
2. The fare increase is reasonable.
3. Applicants overpaid the filing fee by \$200, which should be refunded.

Only the amount paid to the State for operative rights may be used in rate fixing. The State may grant any number of rights and may cancel or modify the monopoly feature of these rights at any time.

O R D E R

IT IS ORDERED that:

1. By March 1, 1991, Norman S. Burnett may sell and transfer the operative rights and property specified in the application to Burnett Industries, Inc.

2. Purchaser shall:

- a. File with the Transportation Division written acceptance of the certificate and a copy of the bill of sale or other transfer document within 30 days after transfer.
- b. Amend or reissue seller's tariffs and timetables, state in them when the service will start, make them effective 10 or more days after this order is effective, and allow at least 10 days' notice to the Commission.
- c. Comply with General Orders Series 101, 104, and 158, and the California Highway Patrol (CHP) safety rules.
- d. File an annual report of seller's operations for the period from the first day of the current year to the date of transfer.
- e. Maintain accounting records in conformity with the Uniform System of Accounts.
- f. Remit to the Commission the Transportation Reimbursement Fee required by Public Utilities (PU) Code § 403 when notified by mail to do so.

3. If the transfer is completed, on the effective date of purchaser's tariffs a certificate of public convenience and

necessity is granted to Burnett Industries, Inc. authorizing it to operate as a passenger stage corporation, as defined in PU Code § 226, between the points and over the routes set forth in Appendix PSC-6396, to transport persons, baggage, and/or express.

4. Operations may begin on the date that the Executive Director mails a notice to purchaser that his evidence of insurance is on file with the Commission and that the CHP has approved the use of purchaser's vehicles and terminal for service.

5. The certificate of public convenience and necessity granted by D.89213 is revoked on the effective date of purchaser's tariffs.

6. The Executive Director shall refund to applicant the \$200 overpayment of the filing fee.

7. Burnett Industries, Inc. is authorized to establish the increased passenger fares proposed in Application 90-03-022.

This order is effective today.

Dated SEP 25 1990, at San Francisco, California.

G. MITCHELL WILK
President
FREDERICK R. DUDA
STANLEY W. HULETT
PATRICIA M. ECKERT
Commissioners

Commissioner John B. Ohanian,
being necessarily absent, did
not participate.

I CERTIFY THAT THIS DECISION
WAS APPROVED BY THE ABOVE
COMMISSIONERS TODAY


NEAL J. SHULMAN, Executive Director

Appendix PSC-6396 Burnett Industries, Inc. Original Title Page

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY
AS A PASSENGER STAGE CORPORATION
PSC-6396

Showing passenger stage operative rights, restrictions, limitations,
exceptions, and privileges.

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.

Supersedes authority heretofore granted to
Norman S. Burnett

Issued under authority of Decision 90 09 074,
dated SEP 25 1990, of the Public Utilities Commission of
the State of California in Application 90-03-022.

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

The certificate hereinafter noted supersedes all operative authority heretofore granted to Norman S. Burnett, or its predecessors.

Burnett Industries Inc., by the certificate of public convenience and necessity is authorized to transport home-to-work passengers between United Airlines Maintenance Base at the San Francisco International Airport (SFO), and certain points in Santa Clara County, over and along the routes described herein, subject, however, to the authority of this Commission to change or modify the route at any time and subject to the following provisions:

- a. When route descriptions are given in one direction, they apply to operation in either direction unless otherwise indicated.
- b. Service will be operated only at the designated service points listed in Section II.
- c. Service shall be operated on a scheduled basis. Such schedules shall be the timetable filed with the Commission.
- d. Home-to-work passengers means any person who are being transported between their home area and their work area.

Issued by California Public Utilities Commission.

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SECTION II. ROUTE DESCRIPTIONS.

Service shall be operated between United Airlines Maintenance Base, SFO and the following points:

Route 1 - Day Shift

Bollinger & Miller, San Jose
Fremont & Kingfisher, Sunnyvale
El Camino & Hollenbeck, Sunnyvale
El Camino & Bernardo, Sunnyvale
San Antonio & Charleston, Mountain View

Route 2 - Swing Shift

Shamrock & Erin, San Jose
Campbell & La Pradera, Campbell
Saratoga & Campbell, San Jose
Saratoga & Moorepark, San Jose
Sunnyvale-Saratoga & Homestead, Sunnyvale
Sunnyvale-Saratoga & El Camino, Sunnyvale
El Camino & Bernardo, Sunnyvale

Route 3 - Grave Shift

Camden & Erin, San Jose
Campbell & La Pradera, Campbell
De Anza & Rodrigues, Cupertino
Sunnyvale-Saratoga & El Camino, Sunnyvale
El Camino & Mary, Sunnyvale

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