

LRA

Decision No. 1976 20

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
VALLEY AND COAST TRANSIT COMPANY,)
a California corporation, for an)
order authorizing the issuance and)
sale of its total authorized capi-)
tal stock, and in the Matter of the)
Application of E. L. McCONNEL, to)
sell, and Valley and Coast Transit)
Company, a corporation, to purchase,)
the operative rights, franchises,)
property, assets, goodwill and)
business of that certain motor bus,)
express and freight transportation)
business, now being operated and)
conducted by said E. L. McConnel)
under the firm name and style of)
Valley and Coast Transit Company.)

Application No. 14339.

Charles T. White, for applicants.

BY THE COMMISSION:

O P I N I O N

The Railroad Commission is asked to make its order authorizing E. L. McConnel to sell and transfer operative rights and other properties used in the conduct of his auto stage and truck transportation business, to Valley and Coast Transit Company, a corporation, and authorizing the corporation to purchase and acquire such rights and properties and to issue in payment, \$30,000.00 of its common capital stock.

The application shows that Valley and Coast Transit Company was organized, under and by virtue of the laws of the State of California, on or about January 5th, 1928, with an authorized capital stock of \$30,000.00, divided into three hundred shares of the par value of \$100.00 each. It appears that the corporation was organized primarily for the purpose of acquiring and operating the auto stage and truck business now being conducted by E.L. McConnel under the firm name and style of Valley and Coast Transit Company and that it intends to issue, for that purpose, all of its authorized capital stock.

Applicants report the value of the properties which Valley and Coast Transit Company, a corporation, desires to acquire at \$30,020.96. This includes nineteen trucks and trailers which have cost new \$47,000.00 and all of which are in operation. The \$30,020.96 also includes machinery, tools, operating supplies, real property and expenditures incurred to secure franchises. The operative rights to be transferred are those acquired by E.L. McConnel under and by virtue of decisions of this Commission as follows:-

(1) By Decision No. 5469, dated June 6, 1918, in Application No. 3807, E. L. McConnel was granted a certificate of public convenience and necessity for the transportation, as a common carrier, of express, light freight and messages between Paso Robles and San Luis Obispo and the intermediate points of Santa Margarita, Atascadero and Templeton.

(2) By Decision No. 7077, dated February 5, 1920, in Application No. 4588, E. L. McConnel was granted a certificate of public convenience and necessity for the transportation, as a common carrier, of freight, baggage and express between Paso Robles and San Miguel.

(3) By Decision No. 7535, dated May 3, 1920, in Application No. 4644, E. L. McConnel was granted a certificate of public convenience and necessity for the transportation of freight, as a common carrier, between San Luis Obispo and Orcutt, serving as intermediate points Nipomo and Santa Maria, provided that no local shipments be handled between Arroyo Grande, Pismo, San Luis Obispo and intermediate points.

(4) By Decision No. 7688, dated June 8, 1920, in Application No. 5737, E. L. McConnel was authorized to acquire, from V. E. Lloyd, the freight and express rights between San Luis Obispo and Santa Maria that had been acquired by said V. E. Lloyd by reason of having operated prior to and since May 1, 1917, the effective date of the Auto Stage and Truck Transportation Act.

(5) By Decision No. 11354, dated December 13, 1922, in Application No. 8487, E. L. McConnel was authorized to acquire, from Henry Minetti and Frank N. Villa, the operative right for the transportation of property, as a common carrier, between San Luis Obispo, Cayucos, Cambria and intermediate points, which operative rights had been acquired by said Henry Minetti and Frank N. Villa by reason of having operated prior to and since May, 1917.

(6) By Decision No. 13000, dated January 9, 1924, in Application No. 9577, E. L. McConnel was authorized to acquire from M. G. Filipponi, the operative right for the transportation of freight, as a common carrier, between San Luis Obispo, Cambria, San Simeon and intermediate points northwesterly of Cayucos, which operative rights had been acquired by said M. G. Filipponi by authority granted by Decision No. 7532, dated May 3, 1920, in Application No. 4695.

(7) By Decision No. 14347, dated December 9, 1924, in Application No. 10636, E. L. McConnel was authorized to acquire from Joe Genardini the operative right for the transportation of freight and express between San Luis Obispo and Morro and intermediate points, which operative rights had been acquired by said Joe Genardini by reason of having operated prior to and since May 1, 1917.

(8) By Decision No. 16782, dated May 28, 1926, in Application No. 8358, as amended by Decision No. 16971, dated June 19, 1926, E. L. McConnel was granted a certificate of public convenience and necessity for the transportation of passengers, freight and express, as a common carrier, between San Luis Obispo and San Simeon, serving the intermediate points of Morro, Cayucos, Cambria and intermediate points.

In addition to the operative rights granted E. L. McConnel in the decisions referred to above, applicants also ask for authority to transfer all additional franchises or extensions that may be granted E. L. McConnel pursuant to applications heretofore made by him and now pending before the Commission and it appears, in this connection, that there now is pending before the Commission an application, No. 12258, in which E. L. McConnel asks for an order authorizing him to extend his present service north to Gilroy, south to Santa Barbara and east to Fresno and Bakersfield and tributary territory and to intermediate points, as set forth more particularly in that application. Whatever interests E. L. McConnel may have in such proceeding are of a contingent nature and not assignable.

We suggest that hereafter, in the event Application No. 12258 is granted, applicants file a new application requesting authority to transfer whatever rights may be granted in that matter from E. L. McConnel to Valley and Coast Transit Company, a corporation.

In other respects we believe the application herein should be granted. In authorizing the transfer of the operative rights the purchaser is hereby placed on notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given. The Commission at the early stages of the development of this kind of transportation should be extremely careful not to lend encouragement to the idea that these rights possess a substantial element of value.

ORDER

Application having been made to the Railroad Commission for authority to transfer operative rights and property and to issue stock, and the Railroad Commission being of the opinion that this is a matter in which a public hearing is not necessary, and that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through such issue is reasonably required for the purposes specified herein, and that the expenditures for such purposes are not, in whole or in part, reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED that E. L. McConnel be, and he hereby is, authorized to transfer to Valley and Coast Transit Company, a corporation, the properties referred to in the foregoing opinion and the operative rights heretofore acquired by him under authority granted by Decisions Nos. 5469, 7077, 7535, 7688, 11354, 13000, 14347, 16782 and 16971.

IT IS HEREBY FURTHER ORDERED that Valley and Coast Transit Company, a corporation, be, and it hereby is, authorized to acquire the operative rights and properties that E. L. McConnel is herein authorized to transfer and to issue in payment therefor \$30,000.00 of its capital stock.

The authority herein granted is subject to the following conditions:-

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for

rate fixing, or any purpose other than the transfer herein authorized.

2. Applicant, E. L. McConnell, shall immediately unite with applicant, Valley and Coast Transit Company, in common supplement to the tariffs on file with the Commission, applicant E. L. McConnell on the one hand withdrawing, and applicant Valley and Coast Transit Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant E. L. McConnell, shall immediately withdraw time schedules filed in his name with the Railroad Commission and applicant, Valley and Coast Transit Company shall immediately file, in duplicate, in its own name, time schedules covering service heretofore given by applicant E. L. McConnell which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant, E. L. McConnell, or time schedules satisfactory to the Railroad Commission.
4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
5. No vehicle may be operated by applicant, Valley and Coast Transit Company, unless such vehicle is owned by said applicant or is leased under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. No authority is herein granted to Valley and Coast Transit Company to consolidate the operative rights it herein is authorized to acquire nor to enlarge them in any respect beyond these rights now held by E. L. McConnel.
7. Valley and Coast Transit Company shall keep such record of the issue of the stock herein authorized as will enable it to file, within thirty (30) days after such issue, a verified report, as required by the Railroad Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.
8. The authority herein granted shall become effective upon the date hereof.

DATED at San Francisco, California, this 18th
day of January, 1928.

C. S. Harvey

Thomas S. Kautz

M. J. Cline
Commissioners.