

Decision No. 21856

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 TURNER LILLIE, to sell, and
 CALAVERAS TRANSIT COMPANY, Ltd., a
 corporation, to purchase an automobile
 passenger and express line operated be-
 tween Stockton, San Joaquin County,
 and Lake Alpine, Calaveras County, via
 Angels Camp.

ORIGINAL

} Application
 No. 16123

BY THE COMMISSION -

OPINION and ORDER

Turner Lillie has petitioned the Railroad Commission for an order approving the sale and transfer by him to Calaveras Transit Company, Ltd., a corporation, of operating right for an automotive service for the transportation of passengers and property between Stockton and Angels Camp and other points, and Calaveras Transit Company, Ltd., has petitioned for authority to purchase and acquire said operating right and to hereafter operate thereunder, the sale and transfer to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$10,500. Of this sum \$10,000 is declared to be the value of equipment and \$500 is declared to be the value of intangibles.

The records of the Commission show that the operating right herein proposed to be transferred was developed as follows:

Star Auto Stage Association, as evidenced by its C.R.C. No. 1, effective March 1, 1917, established a prescriptive operative right for the transportation of passengers and baggage (75 pounds free) between Stockton and Angels Camp and all intermediate points over the route via Linden, Bellota, Jenny Lind, Valley Springs, North Branch, San Andreas and Fourth Crossing.

An express right was established between the above points as set forth in Supplement No.1 to C.R.C. No.1, effective March 1, 1917, as follows:

Rate B - Parcels carried on any one division, .01 cent per pound, minimum charge 25 cents, limit 100 pounds for any one parcel.

Decision No.7795 of June 24, 1920, on Application No.5162 authorized Star Auto Stage Association to transfer the next above described prescriptive right to Turner Lillie.

Decision No.10673 of July 7, 1922, as amended by Decision No.10694, of July 11, 1922, on Application No.7707 granted a certificate to Turner Lillie for the operation

"..... of an automotive passenger, baggage, express and parcel service between Angels Camp and Melones, serving Carson Hill as an intermediate point; express and parcel service to be limited to shipments from one consignor to one consignee, weighing 100 pounds or less, and such as can be carried upon applicant's passenger stages without inconvenience to passengers."

Decision No.12521 of August 22, 1923, on Application No.9120, granted a certificate to Turner Lillie for the operation of an automobile stage line

"..... as a common carrier of passengers, baggage and express between Stockton and Angels Camp via Farmington, Telegraph City and Copperopolis and intermediate points,"

subject to the condition

"1. No local passengers shall be carried between Stockton and Farmington.

Decision No.14040 of September 10, 1924, denied Application No.10,000.

Decision No.14774 of April 10, 1925, on Application No.10,000 revoked Decision No.14040 and granted a certificate

".... as a common carrier of passengers, express and baggage between Angels Camp and Dorrington and intermediate points, via Murphys, during the period from April 1st to October 1st of each year, said operation to be an extension of existing rights of applicant between Stockton and Angels Camp via Clements and via Farmington, and not a separate and distinct operation."

Decision No.14964 of May 21, 1925, removed the restriction, not quoted herein, set forth in paragraphs 1 and 2 of the provisions contained in Decision No.14774 and amended Decision No.14774 as follows:

"IT IS HEREBY FURTHER ORDERED that the certificate of convenience and necessity granted herein to Turner Lillie be changed to read 'via Bellota and via Farrington' instead of via Clements."

The original Application No.10,000, in Exhibit "A", sets forth a package restriction as follows:

"No package or shipment weighing over 100 pounds from one consignee to one consignor will be handled by passenger auto."

Decision No.16693 of May 10, 1926, on Application No.11829 granted a certificate to Turner Lillie for the operation of an auto stage line

".... as a common carrier of passengers and express matter between Valley Springs, Calaveras County, and the 'Dam Site' of the East Bay Utility District and intermediate points, not as a separate service but as an extension to applicant's present operative rights between Stockton and Valley Springs."

The Exhibits in Application No.11829 contain no express rates, rules or regulations.

Decision No.13704 of August 13, 1927, on Application No.13656 granted a certificate to Turner Lillie

".... for the transportation of express between Angels Camp and Dorrington, and for the transportation of passengers, baggage and express between Dorrington and Lake Alpine, the proposed service being an extension of the present operative rights of said applicant between Stockton and Angels Camp and Dorrington and intermediate points."

The Exhibits in Application No.13656 contain, in Rule 12, the statement:

"..... No individual baggage or shipment weighing over 100 pounds will be handled."

It would appear from this record, then, that the right herein proposed to be transferred is a right to operate an automotive service for the transportation of passengers, baggage and express between Stockton and Angels Camp and intermediate points, via both Bellota and Farmington; between Angels Camp and Melones, serving Carson Hill as an intermediate point, and between Angels Camp and Dorrington and Lake Alpine and intermediate points via Murphys, and between Valley Springs and Dam Site and intermediate points, subject to the restriction that no local service shall be performed between Stockton and Farmington, and that the service between Angels Camp and Lake Alpine shall be seasonal, from April 1st to October 1st of each year, and that no express package weighing in excess of 100 pounds shall be transported, the transportation of express to be limited to the passenger stages used in the service, said rights, with the exception of that between Angels Camp and Melones, being a unified right.

We are of the opinion that this is a matter in which a public hearing is not necessary and that the application should be granted.

Calaveras Transit Company, Ltd., is hereby placed upon 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.

IT IS HEREBY ORDERED that the above entitled application be, and the same is hereby granted, 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 Turner Lillie shall immediately unite with applicant Calaveras Transit Company, Ltd., in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Lillie on the one hand withdrawing, and applicant Calaveras Transit Company, Ltd., on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3- Applicant Lillie shall immediately withdraw time schedules filed in his name with the Railroad Commission, and applicant Calaveras Transit Company, Ltd., shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicant Lillie, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Lillie, 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 Calaveras Transit Company, Ltd., unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

Dated at San Francisco, California, this 2nd day of December 1929.

Thos. D. Loret
W. J. Seaver
W. J. Seaver
Leon Whitwell
W. J. Seaver
COMMISSIONERS.