

Decision No. 30919

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
WALTER C. and LILY McILVAIN, for a)
certificate of public convenience)
and necessity to operate a passonger) Application No. 21870
transportation line between Woodside)
and Portola, and between Woodside and)
Toyan Knolls, Calif.)

ORIGINAL

LILY McILVAIN, in Propria Persona.

BY THE COMMISSION:

O P I N I O N

By this application Walter C. McIlvain and Lily McIlvain, co-partners, operating under the name and style of Redwood City - Woodside Stage Line, seek authority to establish and operate an automotive service as a common carrier of passengers between

- A. Woodside and The Family Farm, Portola and intermediate points,
- B. Woodside and Toyan Knolls and intermediate points,

as an extension and enlargement of and to be consolidated with their presently operated passenger stage service between Redwood City and Woodside. It is four miles from Woodside to The Family Farm and two miles from Woodside to Toyan Knolls.

A public hearing in this matter was conducted by Examiner McGettigan in Redwood City on May 24, 1938, where testimony was received, the matter submitted, and it is now ready for decision.

No protests in this matter were entered.

Applicants presented no public witnesses in this proceeding but Mrs. Lily McIlvain, a partner testifying as to the need for

the service proposed, stated that she had received many requests for such service from persons living in the territory named in the application.

It was her further testimony that there were approximately twenty-five families in the vicinity of Portola and some sixty families in the territory known as Toyon Knolls. A personal survey of the territory, coupled with the requests for service received, convinced Mrs. McIlvain that a common carrier service to and from this territory would be compensatory and would serve a public need.

Applicant proposes an "on call" service daily to Portola and intermediate points, including Searsville Lake, during the winter months with scheduled service proposed from approximately May 15th to October 15th of each year. The district between Woodside and The Family Farm at Portola is principally a summer residence section while Searsville Lake, located about halfway between these points, is quite a popular swimming, boating and picnicking resort very well patronized during the summer season.

Between Woodside and Toyon Knolls, a year-round residential subdivision, and intermediate points, applicant proposes to operate at least one round-trip daily.

The "on call" service of applicant will be available from 7:00 A.M. to 10:30 P.M. daily while the scheduled service will be worked out as to arrival at and departure from termini to best suit the needs of the people of Toyon Knolls and points intermediate. Applicant stated that this matter is at the present under discussion with prospective patrons in the district. All schedules will be co-ordinated and arranged to provide through service between all termini now served or herein proposed to be served by these applicants.

Rates to be assessed are those set forth in Exhibit "B" attached to the application and applicants propose to operate a

7-passenger 1937 Chevrolet Suburban bus in this service with a 1937 Willys sedan as a standby car and to take care of "on call" service demands.

We believe that the record in this matter justifies a finding that public convenience and necessity require the service as proposed. Applicants are experienced operators and are willing and able to perform the service. The territory involved is, at present, without any common carrier service and in growth and development has now reached a point where, we believe, the establishment of a transportation service is justified.

Walter C. and Lily McIlvain are 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.

O R D E R

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Walter C. and Lily McIlvain of a common carrier automotive service for the transportation of passengers as a passenger stage corporation as such is defined in section 2½ of the Public Utilities Act between

- A. Woodside and The Family Farm, Portola and intermediate points via County Road to Woodside, thence to Mountain Home Road, thence Portola Road to The Family Farm, returning via Portola Road, thence to Stanford Road, thence to Woodside Road, and thence County Road to Woodside,
- B. Woodside and Toyon Knolls and intermediate points via County Road to Woodside, thence to Canada Road, over Canada Road to terminal at Wilson's Store, Toyon Knolls, returning via Canada Road to Portola Avenue, over Portola Avenue to Kings Mountain Road, over Kings Mountain Road to County Road, thence County Road to Woodside,

as an extension and enlargement of and consolidated with their present operating right between Redwood City and Woodside.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, granted to Walter C. McIlvain and Lily McIlvain, co-partners, subject to the following conditions:

1. Applicants shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicants shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate, and concurrently make effective on not less than ten days' notice to the Railroad Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which in volume and effect shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.
3. Applicants shall file in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Railroad Commission and the public, a time schedule or time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.
4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been obtained.

5. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by applicants under a contract or agreement on a basis satisfactory to the Railroad Commission.

The effective date of this order shall be five (5) days from the date hereof.

Dated at San Francisco, California, this 31st day of May, 1938.

William M. ...
John ...
Frank ...
Robert ...
Ray & Wiley
COMMISSIONERS