

ORIGINAL

Decision No. 35976

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CALAVERAS TRANSIT COMPANY, LTD., a)
corporation, to sell, and J. V. FUZERE,)
an individual, to buy certain operating)
rights for the transportation of passen-)
gers and express between the City of)
Stockton, San Joaquin County, and Lake)
Alpine, Calaveras County, via Angels)
Camp, Calaveras County, California, as)
is set forth in decisions numbered res-)
pectively 12521, 21848, 18704 and 14774)
as modified by 14964.)

Application No. 25310

BY THE COMMISSION:

O P I N I O N

By its application in this matter, Calaveras Transit Company, Ltd., a California corporation, seeks authority to transfer to J. V. Fuzere ⁽¹⁾ an operative right as a passenger stage corporation, as defined by Section 2 $\frac{1}{2}$, Public Utilities Act, and also certain equipment used to conduct the service. Under this operative right, vendor is authorized to transport passengers, baggage and express between Stockton and Lake Alpine, ⁽²⁾ in Calaveras County, and intermediate points. It was acquired

(1) For brevity, the parties will be referred to subsequently as the vendor and the vendee, respectively.

(2) By this operative right, which rests partly upon the "grandfather clause" of the Auto Stage and Truck Transportation Act (Stats. 1917, Chap, 213), and in part upon certificates granted by the Commission, vendor and its predecessors were authorized to operate a passenger stage service engaging in the transportation of passengers, baggage and express between Stockton and Lake Alpine via Linden, Vellota, Valley Springs, San Andreas, Angels' Camp, Murphys and Dorrington; and also between Stockton and Angels' Camp via Farmington and Copperopolis.

by vendor pursuant to Decision No. 21856; rendered December 2, 1929, in Application No. 16123.

By an agreement between the parties, dated August 1, 1942, a copy of which accompanies the application, the vendor undertook to sell to the vendee, and the latter to purchase, the operative right described, together with two Ford buses. The purchase price for both the tangible and the intangible property was fixed at \$6,500, of which \$2,000 should be paid upon the execution of the agreement and the remaining \$4,500 in monthly installments of \$50 each, extending over a period of 90 months. ⁽³⁾ Interest at 7 per cent shall accrue from August 3, 1942 upon deferred balances. Default in the payment of any installment of principal would entitle vendor to exact payment of the entire unpaid balance, and to recover a reasonable attorney's fee for the services thus occasioned. Profits derived from operations conducted subsequent to August 3, 1942 shall belong to the vendee, who, in turn, indemnifies the vendor against obligations incurred in connection with the business subsequent to that date. Pending payment of the purchase price, and performance by the vendee of all other obligations arising under the contract, title to the property is reserved by the vendor.

It is alleged that, because of war activities, the present general manager and majority stockholder of vendor has found it advisable and necessary to dispose of the passenger and express business which the latter hitherto has conducted. Operation under this operative right, so applicants state, has been

(3) It is reported that the purchase price of \$6,500 will be allocated between tangible and intangible property as follows: \$4,500 for the equipment and \$2,000 for the operative rights.

continuous. The vendee, who has been employed by vendor as a driver, appears to be financially able, and qualified by experience, to provide an adequate service.

In our judgment, public interest would be served by the granting of this application and, accordingly, such will be the order. Since this would authorize the execution of an agreement that is an evidence of indebtedness which, by its terms, is payable more than 12 months after date, the vendee will, therefore, be required to pay the fee prescribed by Section 57, Public Utilities Act. No public hearing appears to be necessary.

O R D E R

Application having been made as above entitled; and the Commission being of the opinion and now finding that public convenience and necessity so require:

IT IS ORDERED as follows:

(1) That Calaveras Transit Company, Ltd., a corporation, be and it hereby is authorized to transfer to J. V. Fuzere that certain operative right (as a passenger stage corporation, as defined by Section 24, Public Utilities Act) acquired by said Calaveras Transit Company, Ltd. pursuant to Decision No. 21856, rendered December 2, 1929, in Application No. 16124, together with the motor vehicle equipment used in conducting said service, as described in the application herein.

(2) That J. V. Fuzere be and he hereby is authorized to acquire from said Calaveras Transit Company, Ltd. said equipment and the operative right described in paragraph (1) thereof, and thereafter to operate thereunder.

(3) That for the purpose of effecting the transfer of said operative right and property, said Calaveras Transit Company, Ltd. and said J. V. Fuzere shall be and they hereby are authorized, within thirty (30) days after the effective date hereof, to execute an instrument substantially in the same form as the agreement dated August 1, 1942, a copy of which is attached to and made a part of the application herein.

(4) That the authority herein granted is subject to the following conditions:

- a. The authority herein granted will become effective when said J. V. Fuzere has paid the minimum fee prescribed by Section 57, Public Utilities Act, which minimum fee is \$25.00.
- b. Within thirty (30) days after the execution of said agreement, said J. V. Fuzere shall file with the Commission a copy thereof.
- c. The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act, and further to the condition that J. V. Fuzere, his successors and assigns shall never claim before this Commission or any court or any other public body, a value for said operative rights, or claim as the cost thereof, an amount in excess of that paid for said rights by those to whom said rights were originally granted.

(5) That in connection with the transfer of said operative right pursuant to the authority herein granted and in the operation by said J. V. Fuzere of a passenger stage service thereunder, the applicants herein shall severally comply with and observe the following service regulations:

- A. Applicants shall severally comply with General Orders Nos. 79 and 80 by filing, in triplicate, within sixty (60) days from the effective date of this order, and concurrently making effective, tariffs satisfactory to the Commission, on not less than five (5) days' notice to the Commission.

B. Applicants shall severally comply with General Order No. 93-A by filing, in triplicate, and concurrently making effective, time schedules satisfactory to the Commission, within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission and the public.

(6) That except as herein otherwise expressly provided, the effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 23rd day of November, 1942.



[Signature]
[Signature]
Francis D. Havens
Richard [Signature]
COMMISSIONERS