

Decision No. 37932

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
P. A. Taylor doing business as
Resort Freight Lines to sell and
Louis Menzio and Ellis J. Fields
to purchase an automobile freight line
operated between Calistoga and
points in Lake County, California.

Application
No. 26677

BY THE COMMISSION:

O P I N I O N

In this application, the Railroad Commission is asked to make an order authorizing P. A. Taylor to sell a certain truck operative right and properties to Louis Menzio and Ellis J. Fields.

The application shows that P. A. Taylor, doing business as Resort Freight Lines, is engaged in the operation of an automobile freight line between Calistoga and Adams Springs and intermediate points, under an operative right acquired by him from S. B. Herrick and William L. Brooks under the authority granted by Decision No. 37323, dated September 13, 1944, in Application No. 26250; that said P. A. Taylor is also the president and majority stockholder of Mt. Lassen Motor Transit, Inc., a passenger stage corporation with operations in Nevada and Lassen Counties, with its principal place of business in Susanville, California; that said P. A. Taylor has determined

that Mt. Lassen Motor Transit, Inc., requires his presence at Susanville so that he is not able to devote the time required to supervise properly the operations of the Resort Freight Lines and that therefore he desires and has made arrangements to sell the operative right, equipment, and all properties used in the operation of the Resort Freight Lines to Louis Menzio and Ellis J. Fields for the sum of \$7,000.

P. A. Taylor and his predecessors have filed financial reports with the Commission. They show for 1943 operating revenues of \$4,394.13 and for 1944, \$7,570.74. The operating expenses for 1943 amounted to \$3,366.81, and to \$5,027.24 in 1944. The net operating revenues for 1943 are reported at \$1,027.32, and for 1944 at \$2,543.50.

P. A. Taylor reports in a verified statement filed in this application that since he has owned the Resort Freight Line properties, for which he paid \$5,000, he has expended \$1,885 to improve the equipment, to pay insurance premiums, to negotiate new contracts with Southern Pacific Company and Railway Express Agency, Inc., to file new tariffs, and to pay filing fees and attorney fees. He alleges that he is making no profit from the sale of the operative right and properties.

Purchasers are now employed by P. A. Taylor as truck drivers in the operation of the Resort Freight Lines. They are familiar with the business and expect to continue to drive their own trucks, if the transfer is authorized. They have agreed to pay P. A. Taylor for his operative right, equipment, contracts and good will \$7,000. The equipment being transferred consists of one 2½ ton International truck, 1929 Model; one 1½ ton International truck, 1941 Model; one 1½ ton International truck,

1941 Model, and materials and supplies. Applicants assign to the tangible property a value of \$2,800. Of the purchase price, purchasers are paying \$3,000 in cash and \$4,000 by the issue of a 6% unsecured promissory note, payable on or before four years after date, with monthly payments of \$75 plus interest.

If Louis Menzio and Ellis J. Fields acquire said properties, they may charge to tangible plant accounts not more than \$2,800 and to intangible capital not more than \$200. The remainder of the purchase price should be charged to a suspense account and amortized on or before four years after the acquisition of said operative right and properties.

The action taken herein shall not be construed to be a finding of value for any purpose other than the proceeding herein involved.

Louis Menzio and Ellis J. Fields are hereby placed upon notice that "operative rights" as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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 Commission has considered applicants' request and is of the opinion that this is not a matter on which a hearing is necessary and that the issue of the note herein authorized is necessary to enable Louis Menzio and Ellis J. Fields to acquire the aforesaid properties, and that this application should be granted subject to the provisions of this order; therefore,

IT IS ORDERED:

1. P. A. Taylor may, after the effective date hereof and on or before September 30, 1945, sell and transfer the operative right, equipment, and other properties referred to in the foregoing opinion to Louis Menzio and Ellis J. Fields, and said Louis Menzio and Ellis J. Fields may purchase and acquire said operative right, equipment, and other properties and thereafter operate thereunder. Purchasers may operate said properties under the name of Resort Freight Lines.

2. Louis Menzio and Ellis J. Fields may, after the effective date hereof and on or before September 30, 1945, issue in part payment for said operative right, equipment, and other properties their promissory note in the sum of not exceeding \$4,000, said note to be in substantially the same form as the note filed in this application as Exhibit "B".

3. If Louis Menzio and Ellis J. Fields acquire said operative right, equipment, and other properties and pay therefor more than \$3,000, they shall charge any amount paid in excess of \$3,000 for said operative right, equipment, and other properties

to a suspense account and amortize the amount charged to such suspense account on or before four years after the acquisition of said operative right, equipment, and other properties by charges to proprietors' account.

4. Applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission and the public.

5. The authority herein granted will become effective when Louis Menzio and Ellis J. Fields, or either of them, have paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which minimum fee is \$25.

6. Within thirty (30) days after the issue of the note herein authorized, Louis Menzio and Ellis J. Fields shall file with the Railroad Commission a true and correct copy of the note issued under the authority herein granted, together with a copy of the book entries by which they record the purchase of said operative right, equipment, and other properties.

Dated at San Francisco, California, this 29th day of May, 1945.

Harold Anderson
Justus D. Capener
Edward Anderson
James W. Cook
John H. Lull
Commissioners

