

Decision No. 45159

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )

HART N. COOK, doing business )  
under the fictitious name of )  
"MOTHER LODE EXPRESS" )

For authority to sell and transfer )  
Highway Common Carrier operative )  
Rights to LILLIE TRANSPORTATION )  
COMPANY, INC., a California )  
Corporation, and )

For authority that said latter Corporation )  
be authorized to acquire said rights and )  
to consolidate same with its existing )  
operative rights. )

Application No. 31926

ORIGINAL

O P I N I O N

Applicant, Hart N. Cook, doing business as "Mother Lode Express," requests authority to sell to applicant, Lillie Transportation Company, Inc., which requests authority to purchase the operative rights created by Decision No. 41589, dated May 18, 1948, in Application No. 28683.

The operative rights proposed to be transferred and as created in Decision No. 41589 read as follows:

"(a) between Modesto, on the one hand, and Knights Ferry, Jamestown, Sonora, Standard, Tuolumne, Soulsbyville, Strawberry, Pinecrest and intermediate points, on the other hand.

"(b) between all intermediate points between Knights Ferry and Pinecrest, inclusive, other than between Sonora and Pinecrest and intermediate points via Twain Harte, Long Barn or Strawberry, unless said property is tendered or received for transportation at the regularly established depot of a common carrier other than Hart N. Cook at Sonora."

The agreement involves the transfer and sale of the operative rights only, the consideration for which is \$12,000.

In justification for the authority sought, it is alleged that the transferee can give a daily regular service between the points heretofore served by the transferor, thus providing an expedited service in shipments moving from Los Angeles, a point which the transferor is presently authorized to serve.

After full consideration of the facts, the Commission is of the opinion and so finds that the proposed transfer is not adverse to the public interest. A public hearing does not appear necessary. The action taken herein shall not be construed to be a finding of the value of the property herein authorized to be transferred. } ✓

Lillie Transportation Company, Inc., is 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

Application having been made as above-entitled, and the Commission being duly advised in the premises,

IT IS ORDERED as follows:

(1) That Hart N. Cook is hereby authorized to sell and transfer to Lillie Transportation Company, Inc., and Lillie Transportation Company, Inc., is hereby authorized to acquire on or before February 15, 1951, the operative rights created by Decision No. 41589, dated May 18, 1948, in Application No. 28683.

(2) That that portion of Decision No. 41589 reading as follows: "unless said property is tendered or received for transportation at the regularly established depot of a common carrier other than Hart W. Cook at Sonora," shall be amended to read as follows: "unless said property is tendered or received for transportation at the regularly established depot of a separate and distinct common carrier."

(3) That within 30 days after the consummation of the transfer herein authorized Lillie Transportation Company, Inc., shall notify the Commission in writing of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

(4) That 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 timetables within 60 days after the effective date hereof, and on not less than 5 days' notice to the Commission and the public.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 19<sup>th</sup>  
December  
day of 1950.

R. F. [Signature]  
Justice F. Calver  
Frank Powell  
Harold A. Kala  
Kenneth Potter  
Commissioners