

ORIGINAL

Decision No. 75583

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
 BETTY ANN RAGGIO, Executrix of the)
 Estate of J. V. FUZERE, for authori-)
 zation to transfer passenger stage)
 operations to GEORGE FREED, doing)
 business as CALAVERAS TRANSIT COMPANY:)
 authorization for the transferee to)
 extend service and for an increase)
 in passenger fares and express rates,)
 Calaveras County.)

Application No. 50872
(Filed February 7, 1969)

O P I N I O N

There is presently outstanding a certificate of public convenience and necessity as a passenger stage corporation, in the name of J. V. Fuzere, doing business as Calaveras Transit Company, authorizing the transportation of passengers and express between Stockton and Lake Alpine via Angels Camp. J. V. Fuzere died on April 25, 1964; his wife, Grace Fuzere died on November 7, 1966.

Applicant George Freed alleges that prior to Mr. Fuzere's death, Mr. and Mrs. Fuzere orally agreed to sell and applicant to buy all the Fuzeres' right, title and interest in the passenger stage business. The agreed upon purchase price was to be \$5,000 and applicant alleges that this sum was paid to J. V. and Grace Fuzere.

Applicant Freed alleges that since the death of J. V. Fuzere he has operated the passenger stage business.

Betty Ann Raggio is the executrix of the estates of both J. V. Fuzere and Grace Fuzere; she has been authorized and directed

by order of the Superior Court of Calveras County to complete the obligations of decedents under the contract of sale. Compliance with this court order will require Commission authorization for the transfer of the certificate and of the property necessary or useful in the passenger stage operation.

Applicant Freed also seeks authority to extend his certificated operations to the communities of Arnold, Bear Valley and Lake Alpine on an "on-call" basis. There is no other passenger stage service operated to the points or area to which authority for the proposed service is sought. This filing was listed on the Commission's Daily Calendar on February 11, 1969. No objections have been received.

Applicant Freed has also requested changes in the effective passenger fare and express rate structure. Significant items of information required by Rule 23 are omitted, and there is no indication of compliance with the service requirements of Rule 24. Therefore, consideration of this phase of the application will be deferred until such time as applicant shall have complied with those rules.

George Freed is hereby placed on 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and that public convenience and necessity requires the proposed extension of service. A public hearing is not necessary.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1969, Betty Ann Raggio, as executrix of the estates of J. V. and Grace Fuzere, may sell and transfer, and George Freed may purchase and acquire, the operative rights and property referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, purchaser 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.
3. Applicants shall amend or reissue the tariffs and timetables on file with the Commission, naming rates and rules governing the common carrier operations authorized to be transferred herein to show that seller has withdrawn or canceled, and purchaser has adopted or established, as its own, said rates and rules. The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the consummation of the transfer herein authorized. The tariff and timetable

filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98-A. The tariffs and timetables shall also clearly set forth the frequency with which the on-call service is to be available, together with the minimum number of passengers or other conditions which applicant will require to operate such service. Failure to comply with and observe the provisions of General Orders Nos. 79 and 98-A may result in a cancellation of the operating authority authorized to be transferred by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, George Freed shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. George Freed is hereby authorized to extend the operating authority, authorized to be transferred by ordering paragraph 1 hereof, to include service from Murphys to Arnold, Bear Valley, Lake Alpine and intermediate points on an "on-call" basis.

6. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to George Freed, authorizing him to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

7. Upon transfer, the certificate of public convenience and necessity granted in paragraph 6 of this order shall supersede the certificate of public convenience and necessity granted by Decision

No. 35976 in Application No. 25310 which certificate shall be revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

8. In providing service pursuant to the certificate herein granted, George Freed shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, George Freed shall file a written acceptance of the certificate herein granted. George Freed is placed on notice that, if he accepts the certificate of public convenience and necessity herein granted, he will be required, among other things, to comply with and observe the safety rules of the California Highway patrol, the rules and other regulations of the Commission's General Order No. 98-A and insurance requirements of the Commission's General Order No. 101-C. Failure to comply with and observe the safety rules, or the provisions of General Orders Nos. 98-A or 101-C, may result in a cancellation of the operating authority granted by this decision.
- (b) George Freed shall maintain his accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

9. Consideration of those portions of this application dealing with rates and fares, and changes in operating authority is deferred, pending the filing of an Amendment to Application No. 50872, which

A.50872 1m

shall comply with Rules Nos. 21, 23 and 24 of the Commission's Rules of Procedure.

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

Dated at San Francisco, California, this 22nd day of APRIL, 1969.

President

Augusta

Fred P. Monrose

V. M. Williams

Commissioners

Commissioner William Symons, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

SECTION 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS
AND SPECIFICATIONS.

George Freed, doing business as Calaveras Transit Co., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to transport passengers, baggage and express shipments on passenger-carrying vehicles between Stockton, Angels Camp, Murphys, Arnold and Lake Alpine and intermediate points over the routes hereinafter described, subject to the following conditions and restrictions:

Service between Murphys, Arnold, Bear Valley and Lake Alpine shall be operated on an on-call basis in accordance with rules to be published in applicant's tariffs and timetables.

SECTION 2. ROUTE DESCRIPTIONS.

Commencing in the City of Stockton, thence via city streets and State Highway 26 to Valley Springs, thence via State Highway 12 to San Andreas, thence via State Highway 49 to Angels Camp, thence via State Highway 4 to Murphys, Arnold, Bear Valley and Lake Alpine; returning by reverse of route.

Issued by California Public Utilities Commission.

Decision No. 75583, Application No. 50872.