

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
C. A. COYKENDALL and J. F. MORGENTHAUER, )  
for a certificate of public convenience ) Application  
and necessity to operate a stage line ) No. 12879  
between Belden in Plumas County, California, )  
and Chester in Plumas County, California. )

ORIGINAL

H. B. Wolfe, for Applicant,

Jas. A. Miller and Harry A. Encell, for  
Mt. Lassen Transit Co., Protestant.

BY THE COMMISSION -

O P I N I O N

In this proceeding C. A. Coykendall and J. F. Morgenthauer have applied for a certificate of public convenience and necessity, authorizing the establishment of an automobile stage service for the transportation of freight, passengers and express as a common carrier between Belden and Chester, and intermediate points, via Longville. Applicants propose one round trip daily from the opening of the roads in the spring time to their closing in the fall and will use one five passenger Lexington touring car and such other equipment as may be required. A schedule showing the proposed tariff of rates and fares accompanies the application.

A public hearing was held before Examiner Austin at Belden, when evidence was offered, the matter was submitted and it is now ready for decision.

At the outset, protestant, Mt. Lassen Transit Company challenged the Commission's jurisdiction to grant a certificate insofar as the proposed route does not traverse a public highway. It appears that the route extends north from Belden to Longville, a distance of about 16 miles, and thence to Chester, a distance of about 10 miles. The road crosses the Feather River immediately north of Belden over a bridge belonging to the Pacific Gas &

Electric Company at the entrance to which is maintained a private property sign. Although the county has maintained and repaired this bridge, one of the supervisors testified that in his judgment the company could close it for public use at any time. For a distance of about 10½ miles north of the bridge the road traverses the Plumas National forest, having been constructed within the past year by the U. S. Forestry Service with Federal funds. The supervisor of this forest testified that, although the road was open to general use by the public, it was built primarily for fire protection and could be closed to the public during any fire emergency at the discretion of the Federal authorities. It is not a county road and is maintained by the Forestry Service until such time as it may be taken over by the county as a part of its highway system. From the park boundary north to a point about three miles south of Longville the road traverses private lands of the Pacific Gas & Electric Company for a distance of about three miles, having been reconstructed by the Forestry Service with the Company's permission. It is used by the public, but can be closed at any time at the Company's discretion. A gate is situated at the boundary of the Company's property where a private property sign has been posted. From this point to Longville, a distance of about three miles from Longville to Chester, the proposed route traverses county roads.

By Section 1 of the Auto Stage & Truck Transportation Act (Stat., 1917, Chap. 213, as amended) our jurisdiction to grant certificates to any transportation company is limited to those operating over any public highway. We have previously held that we have no power to authorize the operation of any company within a National Park (in re Yosemite National Park Company, Dec. No. 11749, 25 R.R.C., 181), and we have also held that we are without power to authorize any such operations over a private road (in re San Joaquin Power Corporation, Dec. No. 804,

18, R.R.C. 791). It is clear that between Belden and the northern boundary of the property of the Pacific Gas & Electric Company the proposed route does not traverse a public highway as that term is used in the statute; consequently, to that extent this application cannot be entertained. However, we have considered <sup>the</sup> evidence, in so far as it relates to the need for a stage and freight service over that portion of the route occupying the county roads and in this connection we shall consider the evidence relating to the need of the through service from Chester and Longville to Belden.

One of the applicants testified that this new road through the forest had been recently constructed and would afford a more direct route to points in the Humbug Valley, such as Longville, and also to Chester. Belden, being the nearest rail center, has also the postoffice where the inhabitants of Longville and the Humbug Valley obtain their mail.

Applicants have made no definite survey of the passengers originating at points along the proposed route, but, the witness stated, during July, 1926, they handled about two tons of freight, including groceries and lumber, between Belden and Longville. Longville is a small settlement in the Humbug Valley, having a permanent population at the hotel and in the immediate vicinity of about 25 persons, which is increased to 50 or 60 in the summer season and there are several other residents in the Humbug Valley. One of the applicants' witnesses, residing about three miles north of Longville, circulated a petition for this service, which was introduced in evidence, and bears the signatures of 47 residents of Chester, Belden and intermediate points. Another witness, residing at Longville, stated it was now impossible for patrons of the hotel to reach Longville by any public conveyance, it being necessary to send out a private car to Prattville, a distance of 9 miles, where they were transferred to the stages of the Mt. Lassen Transit Company. Supplies were also brought in by this route amounting approximately to 3000 pounds a year.

This witness testified that the proposed stage service would be a great convenience to residents of Longville, Chester and the Humbag Valley and it would be preferable to the existing routes.

Belden is situated on the Western Pacific railroad about 20 miles west of Keddie and 55 miles east of Oroville. Those living at Longville and Chester and the intermediate territory desiring to reach Belden have their choice of two routes - first, they may travel to Keddie, upon the Mt. Lassen Transit Company's stages, and thence by rail to Belden, a distance of 62 miles from Chester, or second they may travel by stage from Chester through Red Bluff to Oroville and thence by rail to Belden, a distance of about 190 miles. Chester is the only point directly served by the stage lines, those residing at Longville and intermediate points being required to travel by private conveyance to some point on the stage line. As we have stated, the distance from Belden to Chester over the proposed route is but 26 miles. The stage will also make connections at Belden with the Western Pacific trains, both east and west bound. Although applicants' present schedules provide for lay-overs of several hours at Belden, they expressed their willingness to make any changes necessary to suit the convenience of the public.

The granting of this application was protested by Mt. Lassen Transit Company. Its General Manager & Traffic Manager, W.B. Lawrence, described its operation stating that the company operated lines from Red Bluff to Westwood via Chester; from Keddie to Westwood via Chester and Canyon Dam, between Oroville and Buck's Ranch; from Westwood to Susanville and Reno; from Chico to Jonesville and from Chico to Westwood via Jones and Chester, and have filed an application to extend its service to acquire a line to Quincy. He also described protestant's fares between the principal points served and also connecting rail points.

He stated that the freight and passenger traffic between Keddie and Chester was negligible, the line being dependent principally upon traffic originating at the intermediate points of Crescent Mills and Greenville. Most of the passengers, he testified, moved direct from Greenville and Crescent Mills to Croville, a much smaller proportion traveling south to Keddie, where connections could be made with the Western Pacific Railroad Company's trains. No passengers have been handled south from Chester to the point where a branch line connects with Almanor Inn.

Although the volume of traffic, both passenger and freight, which may be anticipated by the applicants is quite small, nevertheless it must be considered in relation to the population and character of the territory to be served. The evidence indicates the existence of a demand for this service by the residents of Humbug Valley, Longville and Chester, which cannot be satisfied by the more circuitous routes now in existence.

Accordingly a certificate will be granted to applicants, authorizing a freight, express and passenger service between Chester and the northern boundary of the property of Pacific Gas & Electric Company in connection with a through service.

Upon full consideration of the evidence, we are of the opinion and hereby find as a fact that public convenience and necessity require the operation by C. A. Coykendall and J.F. Morgenthaler of an automotive service for the transportation of passengers, freight and express as a common carrier between Chester, on the one hand, and the point where the present road of the U.S. Forestry Service extending north from Belden intersects the northern boundary of the land of the Pacific Gas and Electric Company at a point about three miles south of Longville, on the other hand, and intermediate points, including Belden, in connection with and as a part of a through service for the transportation of passengers, baggage and express to Chester and Belden and intermediate points.

An order will be entered accordingly.

O R D E R

A public hearing having been held in the above entitled application, the matter having been duly submitted, the Commission being now fully advised and basing its order on the finding of fact which appears in the Opinion preceding this Order,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by C. A. Coykendall and J. F. Morgenthauer of an automotive service for the transportation of passengers, freight and express as a common carrier between Chester, on the one hand, and the point where the present road of the U. S. Forestry Service extending north from Belden intersects the northern boundary of the land of the Pacific Gas and Electric Company at a point about three miles south of Longville, on the other hand, and intermediate points, including Belden, in connection with and as a part of a through service for the transportation of passengers, freight and express to Chester and Belden and intermediate points, said service to be seasonal, its operation to be governed by the opening of the roads in the spring time and the closing in the fall.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to said C.A. Coykendall and J.F.Morgenthauer for the operation of the service hereinabove described, subject to the following conditions:

1- Applicants herein shall file their written acceptance of the certificate herein granted within a period of not to exceed twenty (20) days from date hereof.

2- Applicants shall file, in duplicate, within a period of not to exceed thirty (30) days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed ninety (90) days from the date hereof.

3- 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 secured.

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

Dated at San Francisco, California, this 23<sup>d</sup> day of December, 1926.

H. B. Rounding

C. Seaver

Ernest A. Smith

Thos. S. Powell

COMMISSIONERS.