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Decision No. 18876

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BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
W. W. ALLEN and C. A. CURTIS for a
certificate of public convenience
and necessity to operate auto stage
line between Cloverdale and Ft. Bragg,
etc.) Application No. 13314

In the Matter of the Application of
GEORGE L. LEDFORD for certificate to
operate auto stage line between Clover-
dale, Ft. Bragg, etc.) Application No. 13482

Sanborn, Roehl & Smith, by A. B. Roehl, for
Allen and Curtis, applicants in Ap. 13314;
California Western Railroad & Navigation
Company,
Coast Line Stages, Inc.

Robert Duncan and Caspar A. Ornbau, for
George L. Ledford, Applicant in Ap. 13482.

BY THE COMMISSION:

O P I N I O N

W. W. Allen and C. A. Curtis have petitioned the Rail-
road Commission for an order declaring that public convenience and
necessity require the operation by them of an automobile stage
line as a common carrier of passengers and packages between Clover-
dale and Fort Bragg and intermediate points via Wendling and Albion,
provided, however, that applicants do not propose to transport pas-
sengers or packages between Cloverdale and Wendling and intermediate
points.

Applicants propose to charge passenger and package rates in accordance with Exhibit "A" attached to said application and Applicants' Exhibit 2, filed at the hearing, and to operate under a time schedule in accordance with Exhibit "B" attached to said application.

Applicants propose to operate in the proposed service the equipment described in Exhibit "C" attached to said application.

George L. Ledford has petitioned the Railroad Commission, in accordance with his amended application, for an order declaring that public convenience and necessity require the operation by him of an automobile stage line as a common carrier of passengers and baggage between Cloverdale and Fort Bragg and intermediate points via the towns of Wendling and Albion except that applicant does not propose to transport passengers and baggage between Fort Bragg and Navarro Bridge and intermediate points. This service would be an extension of the present service of George L. Ledford and M. O. Hulbert between Cloverdale and Wendling and other points, as granted by this Commission under Decision No. 11393 on Application No. 8037, dated December 23, 1922.

George L. Ledford has further petitioned this Commission in the above named application for an order confirming the sale by said M. O. Hulbert to this applicant of an undivided half interest in and to the operative right granted in accordance with the aforesaid Decision No. 11393, as shown by that certain bill of sale dated January 3, 1927, which is marked "Exhibit D" and attached to said application. This bill of sale also transfers M. O. Hulbert's half interest to these certain seven auto passenger stages as described therein.

Applicant proposes to charge rates and to operate on a time schedule in accordance with Exhibit "A" and amended Exhibit "B" attached to said application and to use the equipment described in Exhibit "C" attached thereto.

Public hearings on said applications were conducted before Examiner Sattwhite at Cloverdale and Fort Bragg, the matters were submitted and are now ready for decision. Said applications were consolidated for the purpose of receiving evidence and decision as they cover identical routes.

Each of the above named applicants protested the granting of the application of the other. California Western Railroad & Navigation Co. and Coast Line Stages, Inc. appeared specially in behalf of and in support of the service as proposed by Allen & Curtis.

Many witnesses appeared at the hearing in support of both applications.

W. W. Allen, co-applicant in Application No. 13314, has been for several years the manager of Coast Line Stages, Inc. which operates an authorized auto and passenger service between Cazadero and Duncan Mills, Rockport, via Gualala, Albion, Mendocino and Fort Bragg in the State of California. C. A. Curtis, co-applicant, is the general manager of the California Western Railroad & Navigation Company, which owns and operates a railroad for the transportation of passengers and freight between Fort Bragg and Willits.

The evidence, in support of both applications, shows that there is an unanimous demand for a through auto stage service between Fort Bragg and Cloverdale. Many well-known business men and residents from the towns of Fort Bragg, Caspar, Mendocino and Albion located along the Mendocino

section, testified to the desire of the people of these communities and adjacent territory for the stage service as proposed by Allen and Curtis.

Other witnesses from Cloverdale and vicinity appeared in behalf of the proposed service of George L. Ledford.

The volume of passenger traffic that will be accommodated by an additional through stage service, as proposed in each application, is of such a limited and well-known character that it was stipulated by all interested parties at the hearing that one through stage service would be ample to meet all the public demands or needs of the territory proposed to be served.

The record shows that the present connecting service of stage and rail lines in the territory sought to be served consists of daily passenger trains of the California Western Railroad between Fort Bragg and Willits making direct rail connections with the Northwestern Pacific at Willits and with the Coast Line stages at Fort Bragg. Trains leaving Fort Bragg at 11:15 a.m. and 9:00 p. m. daily for San Francisco have direct stage connection from Albion and other towns on the Mendocino Coast. Trains also arrive at Fort Bragg daily from San Francisco and way-points at 8:15 a.m. and 4:00 p.m. with direct rail connections at Willits and also direct connections with Coast Line stages at Fort Bragg.

The Coast Line stages maintain a joint through rate with the California Western Railroad and the Northwestern Railroad for the transportation of passengers. The night train service in both directions between Fort Bragg and San Francisco is handled with a through Pullman sleeper operated by the Northwestern Railroad between Sausalito and Willits and thence to Fort Bragg over the California Western Railroad.

The testimony of Allen and Curtis shows that their proposed service is designed to work in harmony with the present

established train and stage service to and from the Mendocino Coast territory and is in reality a supplemental service which will meet the needs of the travelling public. Their stage schedules as proposed will enable passengers arriving at Cloverdale and points south thereof to save four hours over the present train schedule and also allow such passengers on leaving their point of origin, at Cloverdale, and points south therefrom, seven hours additional time over the existing rail schedules. Arrangements have been made with the Northwestern Pacific Railroad and California Western Railroad whereby an optional routing on round trip tickets will be offered passengers to San Francisco. This will permit a stage trip to Cloverdale in the morning for a direct connection there with the train to San Francisco, together with the opportunity or privilege of returning to Fort Bragg at night on the through Pullman service; or vice versa a round trip by rail from Fort Bragg to San Francisco, returning by stage with direct connections at Cloverdale.

It is the purpose of Allen and Curtis to avoid a duplication of the present operated service as far as possible and by co-operation with the rail lines furnish a co-ordinated service which will meet the needs of the entire Mendocino Coast section. There is no desire or purpose to compete with the present stage line of Ledford & Hulbert between Cloverdale and Wending, and for that reason no local service between those terminals is proposed.

The record shows that the combined population of all the towns proposed to be served is approximately 11,000 which does not include Cloverdale. It is estimated by Allen and Curtis that an average of 12 passengers will be carried in both directions daily between Fort Bragg and Cloverdale and if this estimate proves to be correct it is believed that the proposed service can be

operated without loss.

It was shown by Allen and Curtis that their service will have available the entire operative, mechanical and administrative facilities which have long been established under the organization of the Coast Line stages and the California Western Railroad. The record shows that a modern machine shop at Fort Bragg with competent mechanics will be available to maintain equipment in the most economical manner. Terminal facilities at Fort Bragg and agencies at Casper, Mendocino and Albion are already established by the Coast Line stages.

The record shows that George L. Ledford and M. O. Hulbert have operated for many years past an auto stage service between Cloverdale and Wendling and intermediate points and the proposed service of George L. Ledford in this proceeding would be an extension of that service to Fort Bragg. The evidence offered by this applicant shows that Ledford & Hulbert have always rendered an adequate service along and over the route between Cloverdale and Wendling and that the people in this particular territory have always been satisfied with their service. It appears, without contradiction, that they were pioneers in the particular district which they now serve and experienced the usual and various hardships incident to bad and poorly maintained roads without modern equipment and enjoying only the limited patronage of a territory more or less sparsely settled.

The record shows, however, that their service and patronage were confined almost entirely to the district between Wendling and Cloverdale. Some business was enjoyed in transporting laborers to and from Wendling, where the Albion Railroad transported them to the lumber mills of the Albion Lumber Company,

northwest from Wendling. At no time does it appear that the people in the Mendocino Coast section ever, to any extent, used or were served by Ledford & Hulbert's stage line. It appears that the natural movement of local traffic along their route was to and from Cloverdale and not from or to the Mendocino Coast section. There is little or no evidence in the record to indicate that there is much need for the operation of a service from Mendocino Coast points to the interior section between Wendling and Cloverdale. The Mendocino Coast District from Albion to Fort Bragg has always been served by the Coast Stage Line in conjunction with the rail service of the California Western Railway and the Northwestern Pacific Railroad.

The evidence, therefore, indicates that the proposed service of George L. Ledford would be a competitive service with the present stage and rail service of the Coast Line stages and the California Western Railroad and no doubt would take away more or less passenger traffic moving to and from the Mendocino Coast section from the present stage and rail service in and out of Fort Bragg.

The record shows that the people in the Mendocino Coast section are satisfied with the present rail service, serving Fort Bragg and vicinity, and are opposed to any competitive stage service that would impair the efficiency of this service, but, on the other hand, are in favor of an additional and supplemental stage service, such as proposed by Allen and Curtis, for the reason that such a supplemental stage service, with its added schedules and optional routing, would meet the desires of the citizens and business interests of these Mendocino/^{Coast} communities by saving time and expense in travelling to and from San Francisco and way points.

Allen and Curtis, as well as George L. Ledford, applicants above named, offered ample evidence which indicates

clearly that they and each of them all have the financial backing, as well as the necessary experience, to operate the stage service as proposed in their respective applications.

After a careful consideration of all the evidence in this proceeding, we are of the opinion and hereby find as a fact that the public convenience and necessity require the service as proposed by the above named applicants, W. W. Allen and C. A. Curtis and that the public convenience and necessity do not require the service as proposed by George L. Ledford.

With reference to the petition of George L. Ledford for an order approving the purchase by him of the said undivided half interest in and to that certain automobile stage line, as described in Exhibit "D" hereinabove referred to, testimony was offered at the hearing by both M. C. Hulbert and George L. Ledford that under and by virtue of said agreement of sale it was understood that the total consideration to be paid to said automobile stage line was the sum of Twelve Thousand (\$12,000.) Dollars, Four Thousand (\$4000.)^{Dollars}/of which represents the value of the equipment and Eight Thousand (\$8000.) Dollars the value of the operative right. It appears that since the execution of this agreement of sale that applicant, George L. Ledford has had full control and operation of the auto stage line which has been entirely satisfactory to M. C. Hulbert.

We are of the opinion, after a careful consideration of the testimony, that the proposed transfer should be granted. The purchaser is hereby placed upon notice that "Operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or 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. The Commission at the early stages of the development of this kind of transportation should be extremely careful not to lend encouragement to the idea that these rights possess a substantial element of value, either for rate fixing or capitalization.

O R D E R

A public hearing having been held in the above entitled applications, and the same having been duly submitted, and being now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the operation by W. W. Allen and C. A. Curtis of an automobile stage line as a common carrier of passengers and packages between Cloverdale and Fort Bragg and intermediate points via Wendling and Albion, provided, however, that applicants shall not transport passengers or packages locally between Cloverdale and Wendling and intermediate points.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to Allen and Curtis for the operation of the service hereinabove described, subject to the following conditions:

1. Applicants shall file their written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
2. Applicants shall file, in duplicate, within a period of not to exceed twenty (20) 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 sixty (60) 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.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity do not require the operation by George L. Ledford of an automobile stage line for the transportation of passengers and baggage between Cloverdale and Fort Bragg and intermediate points.

IT IS HEREBY ORDERED that the application of George L. Ledford for a certificate of public convenience and necessity to operate an automobile stage line for the transportation of passengers and baggage between Cloverdale and Fort Bragg and intermediate points be and the same is hereby denied.

IT IS HEREBY ORDERED that the application of said George L. Ledford for an order authorizing the sale and transfer of an undivided half interest belonging to M. O. Hulbert of that certain automobile stage operative right, as authorized under and by virtue of this Commission's Decision No. 11393 on Application No. 8037, dated July 23, 1922, be and the same is hereby granted, subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.
2. Applicants, George L. Ledford and M. O. Hulbert, co-partners, shall immediately unite with applicant George L. Ledford in common supplement to the tariffs on file with the Commission, applicants Ledford and Hulbert, co-partners, on the one hand withdrawing, and applicant George L. Ledford on the other hand accepting and establishing such tariffs and all effective supplements thereto.
3. Applicants Ledford and Hulbert, co-partners, shall immediately withdraw time schedules filed in their names with the Railroad Commission and applicant George L. Ledford shall immediately file, in duplicate, in his own name, time schedules covering service heretofore given by applicants Ledford and Hulbert which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicants Ledford and Hulbert or time schedules satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. No vehicle may be operated by applicant Ledford unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

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

Dated at San Francisco, California, this 4th day of

October, 1927.

Emmery
C. Sawyer
Leon Whidell
Thos. S. Rountree
M. A. Lane
Commissioners.