

LRA

Decision No. 20042

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MENDOCINO COAST TRANSIT COMPANY,)
for authority to issue and sell)
fifty (50) shares of its capital)
stock and to purchase and acquire)
the right of W. W. Allen and C. A.)
Curtis to operate an auto-stage)
line as a common carrier of passen-)
gers and baggage between Cloverdale)
and Fort Bragg, California, and in-)
termediate points, together with)
certain operative property and)
assets, and of said W. W. Allen and)
C. A. Curtis to sell and transfer)
the said property to Mendocino)
Coast Transit Company.)

ORIGINAL

Application No. 14978.

Sanborn & Roehl and DeLancey C. Smith,
by A. B. Roehl, for applicants.

BY THE COMMISSION:

OPINION

In this application, as amended, the Railroad Commission is asked to make its order authorizing W. W. Allen and C. A. Curtis to sell and transfer to Mendocino Coast Transit Company, a corporation organized under the laws of the State of California, certain operative rights, property, assets and business, and authorizing Mendocino Coast Transit Company to purchase and acquire said operative rights, property, assets and business, subject to existing liabilities, and to issue and sell, at \$100.00 a share, fifty shares of its common capital stock, without nominal or par value, for the

purpose of paying for such operative rights, properties, assets and business, and of providing working capital, and to issue notes.

The operative rights to be transferred are those granted to W. W. Allen and C. A. Curtis by the Commission by Decision No. 18876, dated October 4, 1927, entered on Application No. 13314, and permit the operation as a common carrier of passengers and packages between Cloverdale and Fort Bragg and intermediate points, via Wendling and Albion, with no local service, however, between Cloverdale and Wendling and intermediate points. The physical properties include two new fourteen passenger Studebaker stages, equipped with special bodies. Current assets and liabilities also will be transferred.

The consideration to be paid for the operative rights, properties, assets and business is \$4,500.00. In Exhibit "I" applicants report the cost of the stages at \$10,975.65, intangible capital at \$508.90 and current assets at \$2,220.39, the three items aggregating \$13,704.94. The liabilities include current running accounts and two short term unsecured six percent notes aggregating \$9,500.00 which were issued in connection with the acquisition of the properties. At the hearing held in this proceeding Mendocino Coast Transit Company requested permission to renew the notes from time to time as they become due.

The testimony herein shows that the proposed transfer of properties will result in no change in the control or management of the business, and it appears to us that the application should be granted, subject to conditions set forth in the order following this opinion. In authorizing the transfer of the certificate of public convenience, however, we wish to place the applicants on notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reason-

able rates. Aside from this 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 in the number of rights which may be given.

O R D E R

Application having been made to the Railroad Commission for permission to transfer operative rights, properties, assets and business, and to issue stock and notes, a public hearing having been held before Examiner Fankhauser, and the Railroad Commission being of the opinion that the application should be granted, as herein provided, and that the issue of the stock and notes is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED that W. W. Allen and C. A. Curtis be, and they hereby are, authorized to sell and transfer to Mendocino Coast Transit Company the certificate of public convenience and necessity, properties, assets and business, referred to in the foregoing opinion, subject to outstanding liabilities, and Mendocino Coast Transit Company be, and it hereby is, authorized to purchase and acquire said certificate, properties, assets and business, to assume the outstanding liabilities, and to issue and sell, at not less than \$100.00 a share, fifty shares of its capital stock and to use the proceeds to pay for said certificate, properties, assets and business and to provide working capital.

IT IS HEREBY FURTHER ORDERED that Mendocino Coast Transit Company be, and it hereby is, authorized to issue its short term unsecured six percent notes in the principal amount of not exceeding \$9,500.00, for the purpose of renewing the two notes of like amount it is herein authorized to assume, and to renew such notes from time to time, provided that the combined terms of the notes originally issued hereunder and of those given in renewal do not exceed a total period of three years from the effective date of this order.

IT IS HEREBY FURTHER ORDERED that the authority herein given is subject to the following conditions:-

- (1) The consideration to be paid for the properties 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 Allen and Curtis shall unite immediately with applicant Mendocino Coast Transit Company in common supplement to the tariffs on file with the Commission; applicants Allen and Curtis on the one hand withdrawing and applicant Mendocino Coast Transit Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.
- (3) Applicants Allen and Curtis shall withdraw immediately time schedules filed in their name with the Railroad Commission, and applicant Mendocino Coast Transit Company shall file, in duplicate, in its own name, time schedules covering service heretofore given by applicants Allen and Curtis, which time schedules

shall be identical with those now on file in the name of applicants Allen and Curtis, or time schedules satisfactory to the Commission.

- (4) The rights and privileges herein authorized to be transferred may not hereafter be sold, leased, transferred or assigned, nor service thereunder discontinued by Mendocino Coast Transit Company unless written consent of the Railroad Commission has first been secured.
- (5) No vehicle may be operated by applicant, Mendocino Coast Transit Company under the authority herein granted unless such vehicle is owned by said applicant or is leased by it under a contract or agreement as a basis satisfactory to the Railroad Commission.
- (6) No authority is herein granted to Mendocino Coast Transit Company to enlarge the operative rights it is herein authorized to acquire nor to remove any restriction therefrom.
- (7) Mendocino Coast Transit Company shall keep such record of the issue of the stock herein authorized as will enable it to file, within 30 (thirty) days thereafter, a verified report, as required by the Railroad Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.
- (8) The authority herein granted shall become effective when Mendocino Coast Transit Company has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is Twenty-five (\$25.00) Dollars.

DATED at San Francisco, California, this 11th

