

Decision No. 22087

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 L.M. ESTES to sell, and W.M. SANFORD )  
 and FRANK G. WORD to purchase, the )  
 right to operate an automobile pas- )  
 senger, baggage and express line be- )  
 tween Alturas and Bieber, California, )  
 and intermediate points, via Canby, )  
 Adin and Lookout, California, as a )  
 consolidated and unified right in )  
 connection with and as an integral )  
 part of and an extension of, their )  
 present operative rights between )  
 Susanville and Alturas, California. )

Application No. 16149.

James A. Miller, for Applicants.

BY THE COMMISSION:

O P I N I O N

L. M. Estes makes application herein to sell to W. M. Sanford and Frank C. Word, co-partners, operating under the name of Oregon-California-Nevada Stages, the operative rights and one piece of equipment used by him in the transportation of passengers, baggage and express between Alturas, Modoc County, and Bieber, Lassen County, and intermediates. Estes asks the division of his operating rights in order that he may continue the transportation of freight. The partnership joins in the application, and asks further that the rights sought to be transferred be united and consolidated with each and all of its other operative rights and to establish a new schedule of rates and charges for passengers, baggage and express, over the whole system as proposed to be consolidated.

A public hearing was conducted by Examiner Williams at San Francisco.

At the hearing applicants, the co-partners, made certain amendments reducing excess baggage rates from 1.5 cents to one cent per mile and eliminating maximum weight; eliminating express rates on their Susanville-Canby division, for the reason that no express rights have ever been authorized; reducing the proposed minimum on express from 50 cents to 25 cents, and reducing certain rates for passenger service between Alturas and Canby. Comparison of the proposed new rate structure with the one now authorized discloses no increases, and the decreases appear proper and non-discriminatory and beneficial to the traveling public, those for excess baggage benefiting particularly traveling salesmen whose sample cases often exceed 150 pounds weight, and the reduction of fares being due largely to improved road conditions. By stipulation the carrying of baggage, excess or otherwise, is not to impair full passenger capacity of the vehicles used, and the amended rules must so provide.

The operation to be transferred by Estes was authorized by Decisions No. 11707 on Application No. 8690, and No. 13462 on Application No. 9819, for the transportation of "passengers, baggage, express and freight" between Alturas and Bieber and intermediates. It is now sought to divide this right, Estes retaining only the freight right. He testified that his operation has been that of a freight carrier, with express and passenger business incidental. The business of Sanford and Word has, however, been wholly passenger and express. That part of Estes' rights between Alturas and Canby is sole, the co-partners now having no authority between these two points or intermediates. Both possess rights between Canby and Bieber, and each operates

daily schedules. By the acquisition of Estes' rights, the co-partnership will have a continuous route from Susanville via Madeline to the Oregon state line, 66 miles north of Canby, and an entire distance of 199 miles. This operation, except between Alturas and Canby, and Bieber and Canby, is conducted over unimproved mountain roads and only in season, usually from April to December, as in the other months the summits are under several feet of snow, or the level roads become mire for many miles. The co-partnership also has a certificate authorizing operation between Susanville and Canby and the state line, via Merrillville and Parks Ranch. This last operation failed to attract patronage after sixty days' operation, and is now conducted by authority of this Commission as "on call" service, with practically no calls.

From the record it appears that if the transfer of the passenger, express and baggage rights of Estes to the co-partners is authorized and the consolidation is effected, it will save the traveling public 28 hours in any journey from points south of Alturas to points north of Canby, by reason of the added connection between Alturas and Canby, permitting through service. The Alturas-Bieber service of Estes is based upon its connection with the Allen & Linville service between Bieber and Redding, and the daily schedule cannot be changed to make both connections. In the past, travelers for points north of Alturas have been required, after 24 hours wait at Alturas, to take the Estes morning stage to Canby, and there wait four hours more for the interstate stage of Sanford and Word from Alturas destined north. It appears such a benefit to the public that it supports applicants' request for consolidation of their operations. An exception to this is the right between Susanville and Canby, via Parks Ranch. The prudence of this establishment may be regarded as too doubt-

ful to include it in any consolidation. It is conducted over rough mountain roads, through sparsely inhabited country, and has demonstrated that it cannot support a scheduled operation. The "on call" service now offered cannot be effectively united with the scheduled operation. Hence, in the order it will be excluded, and must remain a separate right. Applicant's request that this service be restricted to Adin as north terminus, will be granted, to remove duplication of service with the Bieber line between Bieber and Adin.

The co-partnership proposes to pay Estes \$7500.00 for the rights to be transferred, of which it was testified by all principals that \$2,000.00 represented the value of one vehicle. Applicants, Sanford and Word, therefore, may charge not more than \$2,000.00 of the price to their fixed capital account.

While this Commission does not look with favor on the division of operating rights, and as a rule does not permit such division, in this proceeding, as in Decision No. 21096 on Application No. 15599, where the partnership acquired similar rights from D. S. Mitchell, deviation from the rule is justified, and the division will be permitted. Estes will devote all his energies to freight transportation, and passenger service will be in possession of, and operated by, competent persons, and through service established. The co-partnership possesses vehicles with an aggregate seating capacity of 83 passengers. It was the testimony of Mr. Word that 5400 passengers had been carried between May 31, and December 10, 1929, an average of about 30 daily. The principal equipment is three new 16-passenger coaches with express and baggage compartments. In addition, there are four vehicles of 7-passenger capacity. While the operations also include through interstate service between

Reno, Nevada, and Klamath Falls, Oregon, the equipment seems sufficient for the intrastate service proposed.

Applicants seek "to operate said consolidated and unified operative rights as a consolidated and unified automobile stage service for the transportation of passengers, baggage and express." Unified passenger and baggage service is a consequence of consolidation, but applicants do not possess, and will not acquire by purchase herein, any express rights north of Canby. Applicants ask, however, complete consolidation and unification "for the transportation of passengers and express." The certificate, therefore, will provide for universal express transportation, including that portion of the system between Canby and the state line.

The record herein supports the request of applicants for the assimilation of the Estes line and the unification of service, and an order effecting this will be entered. Because of the many certificates heretofore granted to different operators which are now validly owned by applicants, this result will be accomplished best by a new certificate fixing and defining the unified right, to be accepted in lieu of all previous certificates. Applicants stated their acquiescence in this method.

W. M. SANFORD and FRANK G. WORD are 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 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

L. M. ESTES having made application to sell, and W. M. SANFORD and FRANK G. WORD, co-partners, having made application to purchase certain operative rights for automobile transportation between Bieber and Alturas, as specifically set forth in Decision No. 11707 on Application No. 8690 and Decision No. 13462 on Application No. 9819; and applicants, Sanford and Word, further applying for authority to consolidate and unify said rights with all other rights now possessed by them by authority of Decision No. 21096 on Application No. 15599, and Decision No. 21379 on Application No. 15599 (supplemental) or otherwise; a public hearing having been held, the matters having been duly submitted and now being ready for decision,

IT IS HEREBY ORDERED that the rights now possessed by said L. M. ESTES between Bieber and Alturas, and intermediates, for the transportation of passengers, baggage and express, and no other service, be, and they are hereby transferred to W. M. SANFORD and FRANK G. WORD, co-partners, in accordance with that certain agreement marked Exhibit "A" attached to the application; provided, that said Estes shall retain certificate right for the transportation of freight, as authorized by Decision No. 11707 on Application No. 8690 and Decision No. 13462 on Application No. 9819, between Bieber and Alturas and intermediates, and no other service, 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. W.M. Sanford and Frank G. Word, co-partners, may charge not more than \$2,000.00 of the purchase price paid by them to fixed capital account.

2. Applicant, L. M. Estes, shall immediately unite with applicants, W. M. Sanford and Frank G. Word, co-partners, in common supplement to the tariff for passenger, baggage and express on file with the Commission, applicant, L. M. Estes, on the one hand withdrawing, and applicants, W. M. Sanford and Frank G. Word, accepting and establishing in lieu of such tariffs the tariff and charges shown in their Exhibit "B" as amended, attached to the application, and which tariff and charges are a part of the tariffs hereinafter authorized for consolidated and unified operation.

IT IS FURTHER ORDERED that all operating rights now possessed by applicants, Sanford and Word, co-partners, be, and they are hereby consolidated and united into one system for the transportation of passengers, baggage and express (except that portion between Susanville and Adin, as hereinafter set forth) between the terminals named, and all intermediate points, over the following described routes:

Between Susanville and the California-Oregon state line, near Malin, Oregon, via Eitchfield, Madeline, Likely, Alturas, Canby and Pickering Camp;

Between Alturas and Bieber via Canby, Adin and Lookout; or via Canby, Adin and Parks Ranch; or via Adin and Bieber direct;

and

IT IS HEREBY FURTHER ORDERED that a certificate de novo therefor be issued in lieu of all other operating rights therefor now possessed and acquired herein by said Sanford and Word, co-partners.

IT IS HEREBY FURTHER ORDERED that a separate certificate be, and the same hereby is, granted for the operation of a stage service for the transportation of passengers and baggage between Susanville and Adin, via Merrillville and Parks Ranch, and intermediates; all of the foregoing to be subject to the following conditions:

1. Applicants, W. M. SANFORD and FRANK G. WORD, shall, within ten (10) days from the date hereof, file with this Commission their stipulation accepting the certificate herein granted them in lieu of all other operating rights here-

tofore granted, or otherwise, to said partnership, as set forth in the foregoing opinion; and accepting as a separate certificate not consolidated with any other operation, the certificate for passengers and baggage service between Susanville and Adin.

2. Applicants, W. M. SANFORD and FRANK G. WORD, co-partners, 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 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.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 20<sup>th</sup> day of January, 1930.

Clarence  
Edmund  
Leon  
John  
M. J. C.  
Commissioners.