

Decision No. 23145**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 W. K. SANFORD and FRANK C. WORD,  
 copartners, doing business under the  
 fictitious name of O. C. & N. Stages,  
 for an order consolidating and uni-  
 fying applicants' existing operative  
 rights to operate automobile stage  
 service for the transportation of  
 passengers, baggage and express be-  
 tween Alturas and the California-  
 Oregon State Line at a point known as  
 New Pine Creek, and intermediate points,  
 with the operative rights owned by ap-  
 plicants for the transportation of  
 passengers, baggage and express between  
 Susanville and the Oregon State Line near  
 Malin, Oregon, via Alturas and Canby and  
 intermediate points, and between Alturas  
 and Bieber, via Lookout, via Adin, or via  
 Parks Ranch, and intermediate points, and  
 its existing operative rights between  
 Redding and Bieber and all intermediate  
 points; and to discontinue service between  
 Montgomery Creek and Mud Springs, and  
 between Burney and Pitt 3 and Cayton; and  
 to consolidate the operative right between  
 Susanville and Adin; and for authority,  
 in the general operation of their system, on  
 reconstruction or relocation of highways not  
 affecting intermediate points named in the  
 tariffs of the applicants, to use such re-  
 constructed or relocated highways; also,  
 that when more than one highway route between  
 two or more points is prescribed, the right  
 to use both routes provided that a part of  
 the service rendered is to be given over  
 each route, the division of the service to be  
 optional with the applicant; (2) And for a  
 certificate declaring that public convenience  
 and necessity require in connection with the  
 foregoing operation, as consolidated, the  
 service "on call" by diversion to all con-  
 struction camps of the Great Northern Railway,  
 Western Pacific Railway, and all highway and  
 lumber camps over and along or adjacent to  
 said routes lying within the territory 15  
 miles south of Bieber, California, and the  
 California-Oregon State Line; (3) Applicants,  
 O. C. & N. Stages, Inc., for a certificate  
 declaring that public convenience and necessity  
 require the operation by it of the consolidated  
 operative rights as hereinabove set forth;

Application  
No. 16872

(4) And for authority for applicants, Sanford and Word, to transfer the operative rights hereinabove owned and sought to be consolidated unto the O. C. & N. Stages, Inc. and to receive stock in said corporation; (5) And for permission of the Commission for O. C. & N. Stages, Inc. to issue stock unto W. M. Sanford, Frank G. Word, and Thos. B. Riley for the operative rights, property, business, good will, and cash advanced by them as owners of said auto stage system.

Harry A. Enceli, for Applicants.

BY THE COMMISSION:

O P I N I O N

W. M. SANFORD and FRANK G. WORD, copartners, request authority to consolidate all their operating rights under a new certificate and to transfer the rights and physical property of the partnership to O. C. & N. Stages, Inc. Applicants also ask authority for the corporation to issue stock, share and share alike, to Sanford & Word for the rights and properties and, in addition, 800 shares to Thomas B. Riley to reimburse him for loan of \$8000.00. Also, applicant corporation asks authority to abandon certain operations and prays for certificates for some additional service, approval of a new rate schedule, and consolidation of all rights in a new certificate.

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

The rights sought to be transferred are set forth in Decisions Nos. 22037, on Application No. 16347, and No. 22784 on Applications Nos. 16787 and 16788 covering operations in Modoc, Lassen and Shasta counties, between Susanville and the Oregon state line, near Malin, and also between Alturas and the Oregon state line, near New Pine Creek, and between Alturas and Redding, via Bieber. The California routes are continued

beyond state lines to Klamath Falls and Lakeview, in Oregon. All the rights heretofore granted have been consolidated (Decision No. 22037) with each other except that between Susanville and Adin, via Merrillville and Parks Ranch, and such new service as may be authorized herein. The consolidation feature is, therefore, subordinate and is intended to provide applicant corporation with a new right in lieu of all previous grants. The record presented by applicants herein fully justifies consolidation of all rights, and the order will so provide. It occupies a large field, most of which is served by no other carrier, and improved facilities have been added by the present owners, who will own the stock of the corporation.

Applicants also seek authority to abandon service between Montgomery Creek and Mud Springs, and between Burney and Pitt 3 and Cayton. These branch operations served construction camps of the Pacific Gas and Electric Company, discontinued three years ago, and no other passenger traffic is available, as the regions served are not populated. The request will be granted.

Applicant corporation also seeks authority to file and establish a new fare schedule (Exhibit "X" attached to the application). R. A. Lucas, Auditor of the company, testified that this fare structure is intended to put the whole system on a uniform basis and includes very few increases and many reductions. No change in passenger fares is provided. Baggage weight is increased from fifty pounds free to 150 pounds, Lucas explaining that a more liberal allowance is justified to attract passenger traffic. Express rates on short hauls have increased and rates for hauls of 200 miles or more reduced. Lucas testified that the average express haul is 60 miles and the average weight 30 pounds. Analysis of the rate structure discloses a better basis of charges and many advantages to the traveling and shipping public. The order will authorize its adoption.

Applicants also ask authority to establish "on call" service to construction camps on the Great Northern Railway, the Western Pacific Railroad, and all State Highway and lumber camps north of a point 15 miles south of Bieber. This authority, if granted, carries with it the duty on the part of applicant company whenever demanded, based on available traffic, to furnish such additional service only after previously filing with the Commission rates therefor, and, where conducted regularly, schedules therefor and rates consistent with those herein authorized, and the same shall have been accepted by this Commission. At the time of hearing, applicant could not present the sites of the railroad nor other camps, but both railroads have begun construction and expect to establish camps in the territory proposed to be served by applicants.

Coming now to that portion of the application wherein O. C. & N. Stages, Inc. requests permission to issue stock, it appears that the corporation has an authorized capital stock of \$75,000.00, divided into 7,500 shares of the par value of \$10.00 each, all common, and that it is its desire to issue to W. M. Sanford and Frank G. Word capital stock in an amount equal in par value to the net assets to be transferred by them, and to issue to Thomas B. Riley 200 shares of stock of the par value of \$8,000.00. to repay him for a loan of \$8,000.00 made in connection with the purchase of the certificate of public convenience and necessity, operating equipment, etc. of the Redding-Bieber line.

In support of the application it is alleged that Mr. Sanford and Mr. Word have invested in the business the sum of \$23,674.70 each, making a total of \$47,349.40, as set forth in Exhibits "1" and "4" Analysis indicates, however, that portions of such advances were used to meet operating costs and as the Commission, under the provisions of Section 52(b) of the Public Utilities Act,

cannot authorize the issue of stock against operating expenses, we do not believe that we can use the \$47,349.40 as the basis for determining the amount of stock to be authorized.

In our opinion the proper basis for the order authorizing the issue of stock is the net value of the assets to be transferred. In Exhibit "D" there has been filed a financial statement of the assets to be transferred and the liabilities to be assumed, as follows:

A S S E T S.

Revenue passenger cars . . . . .	\$29,522.27
Tools and machinery . . . . .	339.15
Furniture and fixtures . . . . .	234.10
Franchises . . . . .	22,027.92
Prepayments . . . . .	1,590.90
Other debit accounts . . . . .	<u>428.60</u>
Total assets . . . . .	\$54,142.94

L I A B I L I T I E S

Car contracts . . . . .	\$ 3,328.47
Due L. M. Estes and S. C. Cassidy . . . . .	4,000.00
Net balance . . . . .	<u>46,814.47</u>
Total liabilities . . . . .	<u>\$54,142.94</u>

As to the figure of \$29,522.27 for revenue passenger cars, the record shows that the items making up this total include the following:

Dodge parlor car, 16-passenger, year 1929 ..\$	6,154.82
Dodge parlor car, 16-passenger, year 1929 ..	6,154.82
Dodge parlor car, 16-passenger, year 1929 ..	6,154.82
Buick Sedan, 7-passenger, year 1927 .....	1,000.00
Marmon Sedan, 7-passenger, year 1925.....	804.75
Pierce Arrow-48, 7-passenger, year 1918,...	507.03
Pierce Arrow-48, 7-passenger, year 1918....	507.04
Pierce Arrow-66, 7-passenger, year 1918....	738.99
Willys Knight, 7-passenger, year 1930 .....	1,500.00
Peerless, 7-passenger, year 1929 .....	1,000.00
Sub-total . . . . .	<u>24,522.27</u>
Five Pierce Arrow cars, 12-passenger .....	5,000.00
Total . . . . .	<u>\$29,522.27</u>

It appears that the five Pierce Arrow 18-passenger cars were purchased recently from Pacific Greyhound Lines, Inc. for a total sum of \$2,780.00 and that the \$5,000.00 listed above represents the estimated present value of such cars. The values in the foregoing tabulation assigned to the other cars represent, according to the testimony herein, the estimated present value after deducting the accrued depreciation, with the exception of the prices for three Dodge cars heading the list, which are said to be actual costs. On this point Mr. Sanford testified that in his opinion about twenty per cent should be deducted from the prices of the Dodge cars to cover depreciation accrued from one year's operation. If this be done, the total representing revenue passenger cars would be reduced by the sum of \$3,692.90 to a figure of \$25,829.37.

The remaining debit balances in the financial statement appear reasonable, with the exception of the \$22,027.92 assigned to "franchises" which is reported made up of the following items:

Susanville-Alturas (via Ravendale & Madeline)	
Susanville-State Line (via Adin & Parks Ranch)	.....\$6,000.00
Alturas-Bieber	..... 6,000.00
Filing fees	..... 150.00
Attorney's fees	..... 302.92
Applications and tariffs	..... 575.00
Time and expenses (W.M. Sanford and Frank G. Word)	..... 1,500.00
Redding-Bieber Stage Line	..... 7,000.00
Time and miscellaneous expenses	..... 500.00
Total	..... <u>\$22,027.92</u>

It appears that applicants, copartners, purchased some of the certificates they now hold from former operators, the purchase prices paid being included in the above tabulation and in the statement of assets and liabilities. In this connection we might point out to applicants for their information that under the provisions of Section 52(b) of the Public Utilities Act the Commission has no power to authorize the capitalization of any franchise, permit or right, such as certificates of public convenience and necessity defining operative rights as here involved, in excess of

the amounts actually paid to the state or to a political subdivision as the consideration for the grant of such franchise, permit or right.

It might be added, that heretofore the Commission, in the past, in authorizing W. M. Sanford and Frank G. Word to purchase or acquire operative rights, stated that its action in doing so was not to be construed as binding it to recognize the purchase price paid as the proper basis for an order authorizing the issue of stock or other securities, or fixing rates, or for any other purpose. Moreover, the Commission in each decision definitely placed the two copartners upon notice that operative rights do not constitute a class of property to be capitalized or used as an element of value in determining rates.

The Commission can recognize the amounts actually expended by original grantees of operative rights in acquiring them, as properly capitalizable as organization costs. Here, however, no showing was made of such amounts. In the absence of such showing and in view of the statutory provision of the Public Utilities Act and the former decisions of the Commission, it is evident that the Commission cannot use the \$22,027.92, nor the purchase prices paid for the several rights by the present operators, in arriving at the amount of stock to be authorized to be issued. It does appear that certain amounts have been expended by the copartners in building their present system which may be capitalized.

Taking into consideration these expenditures which are of an organization nature and the allowances on passenger cars, after deducting depreciation, and the other assets, and deducting the liabilities of \$7,328.47 to be assumed, we believe that the corporation should be permitted to issue \$25,000.00 of stock in acquiring the rights and properties of W. M. Sanford and Frank G. Word.

As to the request of the corporation to issue \$8,000.00 of stock to Thomas B. Riley in payment of amounts due him for advances to the copartners in the acquisition of the Redding-Bieber line, it appears that the copartners purchased the rights and properties comprising this line for \$8,000.00 from Ward G. Allen and Vern C. Linville. Of the purchase price it appears that W. M. Sanford and Frank G. Word have considered \$7,000.00 as the cost of the operative rights and \$1,000.00 as the cost of physical properties, and have set up such values in the statement of assets and liabilities included in this opinion. Such amounts were therefore considered by the Commission in arriving at the \$25,000.00 of stock to be authorized in this matter and the issue of an additional \$8,000.00 of stock would, in our opinion, result in a duplication to that extent. This request, therefore, cannot be granted. However, the distribution of the stock herein authorized is not a matter in which the Commission is interested and, if it is so desired, a portion thereof may be delivered to Thomas B. Riley.

In authorizing the transfer of the rights the O. C. & N. Stages, Inc. is 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.



ORDER

W. M. SANFORD and FRANK G. WORD, copartners, having made application to sell and transfer their rights to operate automobiles for the transportation of passengers and express to O. C. & N. Stages, Inc., a corporation; and O. C. & N. Stages, Inc. to acquire all the rights and physical property of Sanford & Word, copartners; to abandon certain operations; to institute a new schedule of rates of charges for transportation of passengers, baggage and express; for a certificate authorizing "on call" services to construction camps of the Great Northern Railway, Western Pacific Railroad, State Highway and lumber camps, and to consolidate all services into a united system; a public hearing having been held, the matter having been duly submitted and now being ready for decision,

IT IS HEREBY ORDERED that the operating rights herein sought to be consolidated and transferred by W. M. Sanford and Frank G. Word, copartners, be, and they are hereby consolidated, and said consolidated rights, together with the physical and other assets of said Sanford and Word, as herein set forth, be, and they are hereby authorized to be transferred to O. C. & N. Stages, Inc., a corporation; and

IT IS HEREBY FURTHER ORDERED that the request of applicants for authority to abandon service between Montgomery Creek and Mud Creek and between Burney and Pitt 3 and Cayton be, and the same is hereby granted; and

IT IS HEREBY FURTHER ORDERED that the request of applicants for authority to publish the tariff of rates and fares and rules and regulations attached to the application herein, in lieu of the tariffs now on file with the Railroad Commission

in the name of Sanford & Word he, and the same is hereby granted.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY  
DECLARES that public convenience and necessity require the opera-  
tion of an automobile service for the transportation of passengers,  
baggage and express between:

Susanville and Alturas and all intermediate points,  
via Standish, Litchfield, Ravendale, Madeline  
and Likely, and between

Alturas and a point on the California-Oregon line  
near New Pine Creek, Oregon, and all inter-  
mediate points, serving Fandango Mill by di-  
version, and between

Alturas and a point on the California-Oregon line  
near Malin, Oregon, and all intermediate points  
via Canby and Pickering Camp, and between

Susanville and Canby and all intermediate points via  
Merrillville, Haden Hill, Parks Ranch and Adin,  
and between

Alturas and Bieber and all intermediate points via  
Lookout, or via Adin or via Parks Ranch, and  
between

Redding and Bieber and <sup>all</sup> intermediate points over and  
along the following route:

Along the Redding-Alturas State Highway from  
Redding to Bella Vista, Ingot, Round Mountain,  
Montgomery Creek, Burney, Cassell, Fall River  
Mills, McArthur, Pittville and Bieber, and  
between

Oregon State Line and a point 15 miles south of Bieber  
and certain lumber and construction camps intermediate  
thereto as such may be located from time to time by  
lumber interests and the State Highway division and  
Great Northern Railway and Western Pacific Railroad;

and

IT IS HEREBY FURTHER ORDERED that a certificate of public  
convenience and necessity authorizing a service for the transporta-  
tion of passengers, baggage and express over the above described  
routes as a unified consolidated system, such certificate to be in  
lieu of operating rights heretofore granted to Sanford & Word, and  
authorized to be  
by the order herein/ transferred to O. C. & N. Stages, Inc. be, and  
the same is hereby granted to O. C. & N. Stages, Inc., a corporation,

subject to the following conditions:

1. That the service between Susanville and Adin, via Merrillville and Parks Ranch, shall be given "on call" until such time as regular scheduled service may be required.
2. That the service to and from construction camps to be established in the territory between the Oregon State Line near Malin and a point fifteen miles south of Bieber, as herein described, may be given by diversion and "on call" along its said route between the Oregon State Line near Malin and a point fifteen miles south of Bieber, or its regular routes south of Bieber, via Pittville or Parks Ranch and no other routes, provided that no diversion shall exceed three miles from said route; and provided that with the establishment of service "on call" or otherwise, to and from said camps, rates and schedules satisfactory to the Railroad Commission shall be filed with the Commission.
3. That the transportation of express shall be limited to the passenger vehicles operated by applicant and to packages weighing not more than 100 pounds each.
4. That no service shall be given to or from Willow Ranch or Surprise, located on the route between Alturas and New Pine Creek.
5. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof, together with a stipulation that the rights herein granted shall be in lieu of all previous granted to W. M. Sanford and Frank G. Word, as consolidated herein and transferred to applicant corporation.
6. Applicant shall file in duplicate and make effective within a period of not to exceed thirty (30) days from the date hereof a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted.
7. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof time schedules, covering the service herein authorized, in a form satisfactory to the Railroad Commission.

8. 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.

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

Application having been made to the Railroad Commission for authority for O. C. & N. Stages, Inc. to issue stock, a public hearing having been held, and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for by O. C. & N. Stages, Inc. through the issue of \$25,000.00 of stock is reasonably required for the purpose specified herein, which purpose is not in whole or in part reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED that O. C. & N. Stages, Inc. be, and it hereby is, authorized to issue, on or before January 15, 1931, \$25,000.00 of its common capital stock to pay in part for the operative rights and properties of W. M. Sanford and Frank G. Word, referred to in the foregoing opinion, provided, that the corporation keep such record of the issue of the stock herein authorized as will enable it to file, within thirty (30) days after such issue, a verified report as required by the Railroad Commission's General Order No. 24, which order, in so far as applicable, is made a part of this order.

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 10th day of December, 1930.

Edmund  
Frank J. Kelly  
Leon C. Whittell  
Thos. D. Barrett  
W. H. Van  
Commissioners.