

Decision No. 10098

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

JOHN NELSON and GEORGE H. HARTER,
Complainants

-vs-

F.M. HALEY and P.B. MAHONEY,
Defendants

Case No. 1624

ORIGINAL

Wyckoff & Gardner by H.M. Parker
for Complainants.

BY THE COMMISSION

O-P-I-N-I-O-N

John Nelson and George H. Harter operating a stage line between Santa Cruz and Salinas and also by the authority conferred by Decision No. 8844 of the Railroad Commission under date January 4, 1921 a stage line between Castroville and Monterey complain of defendants herein and allege that said defendants have illegally operated a stage line between Santa Cruz and Monterey in that such operation has been conducted after the expiration of the time specified by the Railroad Commission for the commencement of operation as contained in this Commission's Decision No. 8050 as decided September 1, 1920.

Defendants duly filed their answer denying the material allegations of the complaint. On December 5, 1921 complainants herein filed an amendment and supplemental complaint alleging that defendants herein had entirely ceased operation of the stage line for which authority was granted by Decision No. 8050 as decided by the Railroad Commission on September 1, 1920 and that on September 12, 1921 the service authorized was suspended and abandoned and that since such date no service had been rendered

for the accommodation of the public notwithstanding that road and weather conditions during all the period between September 12, 1921 and December 5, 1921 permitted the operation of said stage line. Complainants therefore pray that an order of the Commission be made revoking all operative rights heretofore granted said defendants. The amendment to the complaint in this proceeding was duly served on P.B. Mahoney one of the defendants herein although no answer to such amendment to complaint was filed with this Commission.

A public hearing on this matter was conducted by Examiner Handford at San Francisco the matter was duly submitted and is now ready for decision.

Mr. George H. Harter one of the complainants herein testified that the defendants, Haley and Mahoney operating under the fictitious name of Coast Seonic Auto Stage Line, operated from March 31st to September 12, 1921 inclusive between Santa Cruz and Monterey; that prior to such time the roads between these points were passable and that during entire winter season of 1920-1921 the complainants Nelson and Harter operated service for the benefit of the public and that but few trips were lost on account ^{of} weather and road conditions rendering operation impossible. No operation by Haley and Mahoney was given between these points prior to March 31, 1921 although under the provisions of Decision No. 8308 on Application No. 5742 operation should have been commenced between Santa Cruz and Monterey and intermediate points on or before November 16, 1920. This witness also testified that he had personal knowledge that no operation had been conducted by defendants, Haley and Mahoney, over the route between Santa Cruz and Monterey since September 12, 1921.

There was no appearance on behalf of defendants at the hearing on this proceeding although notice of hearing was

personally served on defendant, P. B. Mahoney, and an effort was made to serve notice of hearing on defendant, F. M. Haley, but he could not be located either in San Francisco or in Santa Cruz and his partner and co-defendant, P. B. Mahoney, had no knowledge of his present address.

From the evidence in this proceeding it is apparent that the allegations of the complainants herein have been sustained as regards the unauthorized suspension of operation since September 12, 1921 up to the date of hearing on this proceeding and as the Commission has heretofore ruled in similar cases that unauthorized suspension of operation without the knowledge and approval of this Commission will be considered as an abandonment of operative rights heretofore granted the order herein will provide for the cancellation of operative rights as authorized in Decision No. 8050 on Application No. 5742 as decided September 1, 1920 and as extended by the provisions of supplemental order Decision No. 8308 on Application No. 5742 as decided November 5, 1920.

O-R-D-E-R.

A public hearing having been held on the above entitled proceeding the matter having been duly submitted and the Commission being fully advised and finding as a fact that the allegations of complainants as to unauthorized suspension of operation of a line between Montocoy and Santa Cruz was made without authority of this Commission commencing on or about September 12, 1921 and continuing until the present time,

IT IS HEREBY ORDERED that the operative rights as heretofore granted to F. M. Haley and P. B. Mahoney, doing business under the fictitious name and style of Coast Scenic Auto Stage Company, for the operation of an automobile stage line as

a common carrier of passengers between Monterey and Santa Cruz and intermediate points as covered by Decisions Nos. 8050 and 8308 on Application No. 5742, as decided September 1, 1920 and November 5, 1920, respectively, be and the same hereby are cancelled and revoked.

Dated at San Francisco, California this 17th day of February, 1922.

H. B. Benedict
H. D. Loveland
Commissioners.