

Decision No. 11225

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

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In the Matter of the Application of
B. L. HALVERSON, operating under the
fictitious name of MODESTO-La GRANGE
STAGE between Modesto and La Grange
and between La Grange and Don Pedro Bar,
as a common carrier of freight and passen-
gers, for a certificate of public con-
venience and necessity to operate the
above named divisions as a through ser-
vice from Modesto to Don Pedro Bar and
intermediate points, via La Grange.

Application No. 8128

BY THE COMMISSION.

O P I N I O N

In this proceeding B. L. Halverson files an applica-
tion with the Railroad Commission in which he petitions for a
certificate of public convenience and necessity authorizing the
operation of an automobile stage line as a common carrier of pas-
sengers, baggage, express and freight between Modesto, La Grange,
Don Pedro Bar and certain intermediate points.

Applicant at the present time holds some three
certificates covering sectionally all of the route proposed to be
served and the present application is being made for the alleged
purpose of consolidating these separate certificates so as to
enable applicant to give a through service in accordance with the
rulings established by the Commission under Decision No. 9892.

A check of the operative rights held by applicant
shows that under Decision No. 8528 in Application No. 6458, ap-
plicant secured from one E. G. Cadrett by transfer, an operative
right authorizing the operation of an automobile stage line as a

common carrier of passengers, baggage and express between Modesto and La Grange, serving as intermediate points, Empire, Half Way House, Newhope, Hinman's Ranch, Waterford, Dallas Ferry, Roberts Ferry and Bassos. This operative right was originally obtained by Cadrett through an order authorizing its transfer from the Star Auto Stage Association, Decision No. 7795 in Application No. 5162.

Under Decision No. 8707 in Application No. 6469 applicant herein was granted a certificate of public convenience and necessity authorizing the operation of an automobile stage line as a common carrier of passengers only between La Grange and Don Pedro Dam. Under Decision No. 9320 in Application No. 6921 ap-

plicant secured a certificate of public convenience and necessity authorizing the operation of an automobile truck line as a common carrier of freight between La Grange and Don Pedro Dam.

On August 29, 1921 applicant herein filed a local freight tariff, C. R. C. No. 2, cancelling his C. R. C. No. 1, in which freight tariff rates are quoted on freight between Modesto, Don Pedro Dam, La Grange and Waterford, between Waterford and La Grange and between La Grange and Don Pedro Dam. This tariff lists various commodities ranging from general merchandise to rock, gravel, machinery and brick, etc. It would appear that the operative right now held by applicant Halverson between Modesto and La Grange was that originally established by the Star Auto Stage Association through operation in good faith prior to May 1st, 1917, and continuously until date of transfer to Cadrett under Decision No.

8528. This operative right authorizes transportation of passengers and such express only as was handled by the passenger cars of the Star Auto Stage Association and at no time did it include the operation of trucks for the transportation of heavy, bulky commodities, such as rock, sand, gravel, etc. as included in the tariff filed by Halverson.

The Commission has repeatedly held that the filing of a tariff does not establish an operative right, nor can an applicant enlarge or extend the operative right secured by certificate, through the filing of tariffs not authorized by the certificate which he holds. In view of the above circumstances, we are of the opinion that the present application should be dismissed; that applicant should be directed to immediately discontinue the transportation of freight between Modesto and La Grange until such time as he secures a certificate of public convenience and necessity authorizing him to engage in such business.

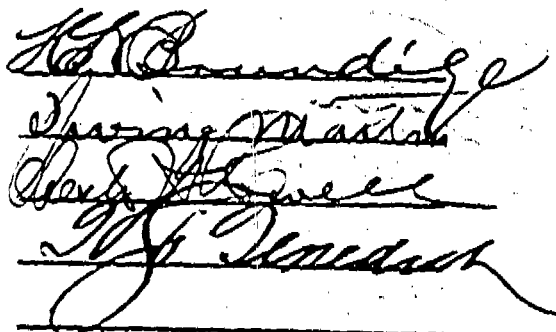
ORDER

IT IS HEREBY ORDERED that Application No. 8128 be, and the same hereby is dismissed, and

IT IS HEREBY FURTHER ORDERED that applicant B. L. Halverson be, and he hereby is directed to forthwith discontinue transportation of freight and express, other than such express as may be handled by passenger carrying machines between Modesto and La Grange and intermediate points, and

IT IS HEREBY FURTHER ORDERED that B. L. Halverson shall immediately file amended tariff of rates to conform to the provisions of the above order.

Dated at San Francisco, California, this 13th day of November, 1922.


Commissioners