

Decision No. 28342

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of )  
MENDOCINO COAST TRANSIT COMPANY to sell, )  
and COAST LINE STAGES, INC., to purchase )  
and acquire an operative right between )  
Fort Bragg and Cloverdale, and Coast )  
Line Stages, Inc., to consolidate such )  
operative right with present rights, and )  
for a certificate of public convenience )  
and necessity to extend present service )  
from Cloverdale to San Francisco via )  
Santa Rosa and Petaluma, and from Monte )  
Rio to Petaluma via Bloomfield and/or )  
Sebastopol and Santa Rosa. )

ORIGINAL

Application No. 20067.  
(Amended)

W. E. Kessler for Applicant Mendocino Coast  
Transit Company.

E. W. Hobbs for Northwestern Pacific Railroad Company,  
Pacific Motor Transport Company, and Petaluma  
and Santa Rosa Railroad, interested parties.

Sanborn & Roehl & Clair MacLeod for California Western  
Railroad and Navigation Company, interested parties.

R. S. Elliott for Railway Express Agency, Inc., as its  
interests may appear.

WARE, COMMISSIONER:

OPINION

Applicant Mendocino Coast Transit Company is a California corporation engaged in the business of operating an automotive transportation service as a common carrier of property for compensation over the public highways of this State between Fort Bragg and Cloverdale and intermediate points under and pursuant to authority heretofore granted to it by this Commission.

Applicant Coast Line Stages, Inc., a California corporation, is a common carrier of property for compensation over the public highways of this State between Fort Bragg and Monte Rio and intermediate points, via Point Arena and Duncan Mills.

The application was filed July 23, 1935, and an amended application limiting the scope of the original was filed October 15, 1935.

The application as amended seeks authority:

(1) For the sale and transfer by applicant Mendocino Coast Transit Company of all of its operative rights, business and assets to applicant Coast Line Stages, Inc., and for the operation by the latter of the combined properties as a consolidated and unified system for the transportation of property as a common carrier for compensation;

(2) For applicant Coast Line Stages, Inc., to operate as a common carrier for compensation, an auto-truck service for the transportation of property between Cloverdale and San Francisco via Highway No. 101 serving the following intermediate points: Sausalito, San Rafael, Petaluma, Santa Rosa and Healdsburg, subject to the restriction that no property shall be transported locally between Cloverdale and San Francisco and intermediate points;

(3) For applicant Coast Line Stages, Inc., to operate, as a common carrier for compensation, an auto-truck service for the transportation of property between Monte Rio and Petaluma via Bloomfield and Guerneville and/or Sebastopol and Santa Rosa, subject to the restriction that no property shall be transported locally between Duncan Mills and San Francisco and intermediate points;

(4) For applicant Coast Line Stages, Inc. to operate its existing operative rights, also the operative rights to be acquired from applicant Mendocino Coast Transit Company together with the proposed enlargements and extensions set out in paragraphs (1) and (2) above, as a consolidated and unified system for the transportation of property as a common carrier for compensation.

A hearing was held in this matter at Santa Rosa on October 17, 1935. The application was submitted upon the record made at the hearing and is now ready for Opinion and Order.

The testimony of J. B. Olinsky, President of both applicants, and E. L. Richardson, San Francisco Manager of applicant Coast Line Stages, Inc., corroborated by the testimony<sup>(1)</sup> and letters of 150 merchants and farmers in the communities involved established these facts:

(1) Applicants Mendocino Coast Transit Company and Coast Line Stages, Inc., are under common ownership, control and management but are operating in the same general territory as separate corporations. Between Fort Bragg and Navarro River Bridge both applicants operate over the same route.

1. Two Santa Rosa merchants appeared on behalf of applicant Coast Line Stages, Inc. It was stipulated that the writers of the 150 letters, comprising Exhibit No. 1 would, if called, testify substantially the same as the two witnesses who appeared.

(2) Applicant Coast Line Stages, Inc., has, since 1933, engaged in an automotive service for the transportation of property under private contracts between points served by both applicants under their certificates of public convenience and necessity on the one hand and San Francisco, Sausalito, San Rafael, Petaluma and Santa Rosa on the other hand.

(3) The contracts were entered into and the service undertaken at the special request of merchants and farmers located in the territory served by applicants as common carriers, i.e. between Fort Bragg and Monte Rio and between Fort Bragg and Cloverdale.

(4) Before commencing its service as a highway contract carrier applicant, Coast Line Stages, Inc. offered to establish through routes and joint rates with Northwestern Pacific Railroad Company or to enter into a contract with Pacific Motor Transport Company for the establishment of a through express service. Neither of these ideas were carried out as the parties were unable to arrive at any mutually satisfactory understanding.

(5) The service rendered by applicant Coast Line Stages, Inc., under its contracts has completely satisfied the requirements of the merchants and farmers who have employed its services.

(6) The service rendered by applicant Coast Line Stages, Inc. has been compensatory.

Railway Express Agency, Inc. appeared as a protestant but offered no evidence, and its counsel stated at the hearing that it did not oppose the granting of the application.

It appears that the service rendered by applicant Coast Line Stages, Inc., under its contracts has been satisfactory and adequate from the standpoint of its patrons, and that it should be permitted to enlarge its scope and operations from those of the contract carrier, which it has been, to those of a common carrier, thereby dedicating its facilities to the public generally.

It further appears that the present common carrier services of applicants can be more efficiently and more economically conducted by applicant Coast Line Stages, Inc.

The evidence fully supports two conclusions: First, that applicant Mendocino Coast Transit Company should be authorized to sell and transfer and applicant Coast Line Stages, Inc., should be authorized to purchase and acquire the operative rights, business and assets

of the former; Secondly, that a certificate of public convenience and necessity should be issued to applicant Coast Line Stages, Inc., as prayed for.

Coast Line Stages, Inc., is 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 way limited as to the number of rights which may be given.

The following form of order is recommended:

#### O R D E R

Public hearing having been held in the above entitled matter and the application having been submitted,

IT IS HEREBY ORDERED that Mendocino Coast Transit Company be and it is hereby authorized to sell and transfer, and Coast Line Stages, Inc. is hereby authorized to purchase and acquire the operative rights, business and assets of the former, 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.

(2) Applicant Mendocino Coast Transit Company shall within twenty (20) days after the effective date of this order unite with applicant Coast Line Stages, Inc., in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Mendocino Coast Transit Company on the one hand withdrawing, and applicant Coast Line Stages, Inc., on the other hand accepting and establishing such tariffs and all effective supplements thereto, except as said tariffs may be modified or changed by the rates, rules and regulations proposed by applicant Coast Line Stages, Inc., as set forth in amended Exhibit "B" attached to the amended application.

(3) Applicant Mendocino Coast Transit Company shall within twenty (20) days after the effective date of this order withdraw time schedules filed in its name with the Railroad Commission and applicant Coast Line Stages, Inc., shall within twenty (20) days after the effective date of this order file, in duplicate, in its own name time schedules covering service heretofore given by applicant Mendocino Coast Transit Company, which time schedule shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Mendocino Coast Transit Company except as the same may be modified or changed by Exhibit "C" attached to the application or time schedules satisfactory to the Railroad Commission.

(4) The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

(5) No vehicle may be operated by applicant Coast Line Stages, Inc., 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.

(6) The authority granted to sell and transfer the right and/or property shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY  
DECLARES that public convenience and necessity require the operation  
by Coast Line Stages, Inc., of an auto-truck service for the transportation of property, as a common carrier;

(1) Between Cloverdale and San Francisco, Sausalito, San Rafael, Petaluma, Santa Rosa and Healdsburg, subject to the restriction that no property shall be transported locally between Cloverdale and San Francisco and intermediate points, via Highway No. 101.

(2) Between Monte Rio and Petaluma via Bloomfield and Guerneville and/or via Sebastopol and Santa Rosa, subject to the restriction that no property shall be transported locally between Duncan Mills and San Francisco and intermediate points, as an enlargement and extension of the existing operative rights of applicants.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same hereby is granted to said Coast Line Stages, Inc., in lieu of its present certificate, wherein said Coast Line Stages, Inc., is authorized to operate its present operative rights, together with the rights of Mendocino Coast Transit Company,

which latter rights are authorized herein to be transferred to said Coast Line Stages, Inc., together with the enlargements and extensions hereinabove granted, as a consolidated and unified system for the transportation of property as a common carrier for compensation, subject to the following conditions:

(1) Applicant Coast Line Stages, Inc., shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.

(2) Applicant Coast Line Stages, Inc., shall file in triplicate and make effective within a period of not to exceed thirty (30) days from the date hereof on not less than ten (10) days' notice to the Commission and the public 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, and as amended, in so far as they conform to the certificate herein granted.

(3) Applicant Coast Line Stages, Inc., shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof, on not less than five (5) days' notice to the Commission and the public, time schedules according to form provided in General Order No. 83, covering the service herein authorized, in a form satisfactory to the Railroad Commission.

(4) 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.

(5) 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.

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

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission.

Dated at San Francisco, California, this 17<sup>th</sup> day of November, 1935.

John A. Wheeler  
W. A. P.  
W. A. P.  
W. A. P.  
Commissioners.