

Decision No. 29539

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Investigation on )  
 the Commission's own motion into the )  
 rates, rules, regulations, charges, )  
 classifications, practices, contracts, )  
 operations and schedules, or any thereof, )  
 of MAX HENDERSON, an individual doing )  
 business under the fictitious name and )  
 style of REDWOOD-WOODSIDE STAGE LINE. )

Case No. 4196

Albert Mansfield, City Attorney for Redwood City.

Jackson & McCredie, by C. H. McCredie, for  
Max Henderson.

BY THE COMMISSION:

**ORIGINAL**O P I N I O N

In this proceeding the Commission instituted an investigation on its own motion into the rates, rules, regulations, charges, practices, classifications, operations and schedules, or any of them, and particularly the schedules and methods of operation and points served of Max Henderson, an individual doing business under the fictitious name of Redwood-Woodside Stage Line, in operating a service as a passenger stage corporation between Redwood City and Woodside.

Examiner Gorman conducted a public hearing in this matter on February 3, 1937, at Redwood City, at which time the matter was submitted and is now ready for decision.

Max Henderson, hereinafter called respondent, testified that he was the owner and operator of the Redwood-Woodside Stage Line under a certificate of public convenience and necessity

purchased from Herman Metzner, Jr., under authority of the Commission's Decision No. 25208, dated September 26, 1932, which was placed in evidence by reference. He further testified that he transported passengers between Redwood City and Woodside over and along the following route for a one way fare of 25 cents.

From Southern Pacific Depot to Main Street,  
out Main Street to Five Points and thence  
via the Woodside Road to Dobie Corner at  
Woodside.

Respondent further testified that he had continuously made and did now make trips beyond his Woodside terminal and that on such trips he transported about 40 per cent of his total number of passengers. An individual fare was collected on these trips which the witness testified he charged at the rate of 10 cents additional for a mile and 25 cents additional for two miles. Henderson also testified that he had operated as far as four miles beyond his terminal.

Other trips ranging from once a week in the winter to three or four times a week in the summer were made by respondent, according to his testimony, from Redwood City to Searsville Lake about two miles beyond Woodside and for which he collected an individual fare of fifty (50) cents.

Respondent's certificate of public convenience and necessity does not permit the transportation of passengers beyond the Woodside terminal nor were the fares as testified to by respondent for these so-called "off line points" published in his tariff on file with the Commission and he appeared to be only vaguely aware of the fact that a tariff had been filed or was in effect.

Mr. Henderson testified to the fact that he considered operations beyond his Woodside terminal as part of his certificated

operating right but further stated that he sometimes refused to take passengers on these special trips if by so doing he would interfere with regularly scheduled trips between termini.

It is difficult to reconcile the two statements in view of his common carrier status.

Respondent could offer no vestige of authority for operating beyond Woodside but relied on a letter received from the Commission under date of December 8, 1931, under file No. 322-A and addressed to Norman S. Menefee, attorney for Herman Metzner, Jr., Henderson's predecessor in interest.

The letter which was read into the record advised Metzner that he could operate occasionally beyond his Woodside terminal and make a charge therefor but warned him that any frequency of operation between such points would necessitate the obtaining of a certificate of public convenience and necessity for such service.

Subsequent to the receipt of this letter, Section 50 $\frac{1}{2}$  of the Public Utilities Act, under which Henderson's certificate was acquired, was amended to include the following:

\*\*\*Any act of transporting or attempting to transport any person or persons by stage, auto stage, or other motor vehicle upon a public highway of this state between two or more points not both within the limits of a single incorporated city, town or city and county, where the rate, charge or fare for such transportation is computed, collected or demanded on an individual fare basis, shall be presumed to be an act of operating as a passenger stage corporation within the meaning of this act.\*\*\*

Respondent was not aware of this amendment.

The record appears clear in regard to this operator. He frankly admits serving beyond his terminal at Woodside, not once but many times in the course of the more than four years that he

has operated the line. He testified to the fact that he had and still did charge an individual fare for these trips and the only deterring factor to a further extension of these operations revolved around the limitations imposed by time as represented by his desire to maintain his regular schedules. Furthermore his time card bore the notation "Stage will run all off line points when required."

Based on the record, it is obvious that respondent's operations beyond his terminal at Dobie Corner, Woodside, are those of a passenger stage corporation as defined in Section 50½ of the Public Utilities Act and he should be ordered to cease and desist all such operations until such time as he has applied for and been granted a certificate of public convenience and necessity therefor. It is likewise recommended that respondent immediately delete all reference to off line point service from his time schedule.

#### O R D E R

Public hearings having been held in the above entitled matter and the same having been duly submitted and the Commission being fully apprised of the facts,

IT IS HEREBY FOUND as a fact that Max Henderson, operating under the name and style of Redwood-Woodside Stage Line, is engaged in the operation of a passenger stage corporation and as a common carrier of passengers for compensation over the public highways of this state between Redwood City and the area located within a radius of four (4) miles beyond his terminal at Dobie Corner, Woodside, without having first obtained a certificate of public convenience and necessity therefor, as required by the Public Utilities Act.

IT IS HEREBY ORDERED that the above named respondent shall immediately cease and desist from such operation as a passenger stage corporation, unless and until proper certificate of public convenience and necessity therefor shall have been obtained, and notice is hereby given that such operation shall not be conducted by the above named respondent either directly or indirectly, or by any subterfuge, or by his agents, employees, representatives or assignees.

IT IS HEREBY FURTHER ORDERED that the Secretary of this Commission cause personal service of a certified copy of this opinion and order to be made upon Max Henderson and that copy thereof be mailed to the District Attorney of San Mateo County and the Department of Public Works, Division of Highways, at Sacramento.

This order shall become effective twenty (20) days after personal service as hereinabove directed.

Dated at San Francisco, California, this 13<sup>th</sup> day of February, 1937.

William J. ...  
Leon ...  
Frank ...  
Ray & ...  
COMMISSIONERS.