

Decision No. 30003

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
N. B. MACKEY for certificate of public )  
convenience and necessity to operate ) Application  
Passenger and Freight service between ) No. 21226  
Downieville, California, and Sattley, )  
California. )

BY THE COMMISSION:

O P I N I O N

N. B. Mackey in this application requests a certificate of public convenience and necessity for the establishment and operation of an automotive service for the transportation of passengers, baggage and property between Downieville and Sattley and intermediate points. The service proposed is a seasonal service to be operated between the approximate dates of April 1 and December 31 of each calendar year.

As justification for the authority sought, the applicant alleges that it now holds a U. S. mail contract for the transportation of mail between Downieville and Sattley and that there is, at the present time, a moderate demand for the proposed service.

In view of the fact that, at the present time, there is no public service now being conducted between Downieville and Sattley and intermediate points, it appears to be in the public interest to grant the authority sought. It does not seem that a public hearing is necessary and the application will be granted.

N. B. Mackey 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 respect limited to the number of rights which may be given.

O R D E R

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY DECLARES that public convenience and necessity requires the establishment and operation by N. B. Mackey of an automotive service as a passenger stage corporation as such is defined by Section 2-1/4 of the Public Utilities Act and as a highway common carrier as such is defined by Section 2-3/4 of the Public Utilities Act for the transportation of passengers, baggage and property between Downieville and Sattley and intermediate points via Sierra City, and

IT IS HEREBY ORDERED that a certificate therefor is hereby granted to N. B. Mackey subject to the following conditions:

1. The operation herein authorized may be conducted seasonally between the approximate dates of April 1 and December 31 of each calendar year.
2. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
3. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate and concurrently make effective on not less than ten days' notice to the Railroad 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 in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.

4. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Railroad Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

5. 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 obtained.

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

7. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 9<sup>th</sup> day of August, 1937.

W. H. [Signature]  
Frank [Signature]  
[Signature]  
[Signature]  
COMMISSIONERS.