

Decision No. 31508

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Applications of )  
COAST LINE STAGES, INC., for a certificate )  
of public convenience and necessity to trans- )  
port property as a common carrier, for )  
compensation, over the public highway )  
between Fort Bragg and Rockport, Mendocino )  
County, California, and intermediate points, )  
as an enlargement and extension of its )  
existing operative rights between San )  
Francisco and Fort Bragg, and intermediate )  
points, and, for a certificate of public )  
convenience and necessity to transport )  
passengers and property, as a common )  
carrier, for compensation, between Duncans )  
Mills and Monte Rio, California, over the )  
County road extending between said points, )  
instead of over State Highway No. 1 over )  
which applicant now operates under its )  
existing operative rights, as an enlargement )  
and extension of applicant's existing )  
operative rights between Fort Bragg and Monte )  
Rio, and intermediate points, and, between )  
Fort Bragg and San Francisco, and intermediate )  
points. )

Application  
No. 22176

ORIGINAL

W. H. KESSLER, for applicant.

SANBORN, ROEHL AND MAC LEOD by Clair W. MacLeod,  
for California Western Railroad and Navigation  
Company as its interest may appear.

WAKEFIELD, Commissioner:

O P I N I O N

By this application Coast Line Stages, Inc., a corporation, seeks authority to establish and operate an automotive service as a highway common carrier between Fort Bragg and Rockport and intermediate points via State Highway No. 1, as an extension and enlargement of its existing rights and to be consolidated therewith. Additionally, applicant seeks a further order of this Commission, authorizing it to establish an alternate route between Duncans Mills and Monte Rio via County Road between termini, serving intermediate points, in addition to its presently operated

route via State Highway No. 12.

A public hearing<sup>(1)</sup> in this matter was had in San Francisco on Thursday, October 6, 1938, at which testimony was taken and exhibits filed. The matter was thereon submitted, and it is now ready for decision.

Although no protestants to the granting of this application appeared, California Western Railroad and Navigation Company entered an appearance as an interested party.

Julius Olinsky, Vice-President and General Manager of the applicant corporation, testified in regard to the proposed service, but no public witness testimony was presented.

In his testimony, the witness Olinsky stated that he had surveyed this territory and had contacted various shippers with respect to the establishment of the extended service. He also stated that the Rockport Lumber Company has opened its mill at Rockport, which in the words of this witness "has boomed the town". This has created a demand for transportation service which the witness asserts will develop into approximately twenty-five tons per month from the fifteen-ton aggregate moving before the current strikes and labor troubles in San Francisco, which he alleges have cut down the present movement to a great degree. The witness Olinsky further testified that the traffic was now being handled by the Rockport Lumber Company at its convenience and also by his company under its currently held radial highway common carrier permit. In support of the proposal, there were introduced a number of letters (Exhibits Nos. 1 to 6 inclusive) from shippers, including Sonoma Valley Wholesale Grocery Co., Inc., Santa Rosa, wholesalers affiliated with National Brands Stores, Inc.; Crane Company, San Francisco, hauling valves, fittings,

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(1) Conducted by Examiner McGettigan

fabricated pipe, heating and plumbing material; Tiedeman and Harris, Inc., San Francisco dealers in ham, bacon and lard; Mallory Bros., body building, etc., blacksmithing and automotive parts; Sonoma Distributors, Santa Rosa, dealers in liquors and cordials; and E. C. Kraft and Company, Santa Rosa, automotive parts, batteries and garage equipment. Each, in writing, supported the application and stated that they required and would use the proposed service. In addition, there was placed in evidence a petition containing the names of thirty-eight representatives of business, professional and agricultural pursuits in the territory proposed to be served, recommending the granting of the authority sought herein.

The witness Olinsky further testified that there was, at the present time, no regular common carrier service between Rockport and Fort Bragg, and that conditions hereinbefore described indicated that a compensatory operation could be maintained, particularly in view of the fact that the Rockport Lumber Company anticipated a permanent and increasing development of business at its mill.

The California Western Railroad and Navigation Company, through counsel, stated that their position was primarily one of rates, looking particularly toward an agreement with applicant for the filing of joint rates. Upon agreement by the parties that a stipulation providing for the establishment of such joint rates would be subsequently prepared and filed with the Commission, (2) California Western Railroad and Navigation Company withdrew from the proceeding.

With respect to applicant's request for authority to

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(2) Stipulation filed with the Commission on November 7, 1938.

reroute its operation between Duncans Mills and Monte Rio, the witness Olinsky testified that the new county road between termini (which follows the former right-of-way of Northwestern Pacific Railroad) is a superior and more direct route than that now operated over State Highway No. 12, which, it is alleged, contains numerous curves and grades. Complaints of both drivers and passengers and the fact that five miles of operation will be saved, together with the allegations previously set forth, are the basis, Olinsky stated, for the rerouting request.

Upon a review of the record in this matter, the conclusion is obvious that the extension of service proposed by the applicant is in the public interest and has assurance of being compensatory particularly when viewed in connection with applicant's transportation experience and presently conducted operations between Fort Bragg and San Francisco heretofore authorized. Likewise applicant's request for an alternate route appears to be a reasonable one. It is recommended that the application be granted in toto.

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 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 require the establishment and operation by Coast Line Stages, Inc., of an automotive service as a highway common carrier as such is defined in Section

2-3/4 of the Public Utilities Act between Fort Bragg and Rockport and intermediate points, via State Route No. 1, also an operation between Monte Rio and Duncans Mills, via County Road as an alternate route, in addition to applicant's current operation via State Route No. 12, all as an extension and enlargement of applicant's existing rights, consolidated therewith, subject to all limitations and restrictions heretofore imposed thereunder, and subject to the further proviso that between Duncans Mills and Monte Rio applicant shall maintain an "on call" service, via State Route No. 12.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, granted to Coast Line Stages, Inc., subject to the following conditions:

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

(2) 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.

(3) Applicant shall join with the California Western Railroad and Navigation Company and Northwestern Pacific Railroad Company, and their connections, in establishing joint through rates via Fort Bragg, to and from Rockport and intermediate points, in accordance with a stipulation entered into on November 7, 1938, between Coast Line Stages, Inc., California Western Railroad and Navigation Company and Northwestern Pacific Railroad Company, copy of such stipulation having been filed with the Commission pursuant to agreement made at the public hearing in this matter.

(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, a time schedule or 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 foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

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

*Los Angeles*  
Dated at ~~San Francisco~~, California, this 5<sup>th</sup> day of December, 1938.

*R. B. ...*  
*Frank ...*  
*Ray ...*  
Commissioners