

Decision No. 22271

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of (1) CHARLES H. LOVELAND for cer-  
tificate of public convenience and  
necessity to operate (2) Property  
and Passenger service between Madera,  
California, and Fish Camp, California. )

Application No. 22271

CHARLES H. LOVELAND, in propria persona.

BY THE COMMISSION:

O P I N I O N

Applicant requests a certificate of public convenience and necessity to operate an automotive service for the transportation of property and passengers between Madera and Fish Camp, California, and intermediate points.

The record shows that notice of this hearing was served on Southern Pacific Company, The Atchison, Topeka & Santa Fe Railway, Pacific Greyhound Lines and Railway Express Agency.

Public hearings were held at Madera before Examiner Cameron on March 21 and April 18, 1939, and the matter was duly submitted.

The facts are undisputed. The applicant, Charles H. Loveland, is now and for the past six years has been engaged in the delivery of mail from Madera to Fish Camp under contract with the Federal Government. This contract was renewed on July 1, 1938, for a period of four years. In accordance with the terms of this contract, applicant is required to make daily trips in the delivery of mail between Madera and Fish Camp, and intermediate points, leaving

Madera at 7:15 a.m. and proceeding to Coarse Gold by way of the River Route, from Coarse Gold by way of Highway No. 41 to Oakhurst, Sugar Pine and Fish Camp. On the return trip, applicant leaves Fish Camp at 1:00 p.m. returning to Madera by way of State Highway No. 41. These round trips are made daily from May 1st to November 1st, except Sunday. In the winter, from November 1st to May 1st, the applicant operates round trips from Madera to Oakhurst on Tuesday, Thursday and Saturday, and from Madera to Fish Camp on Monday, Wednesday and Friday. The distance from Madera to Fish Camp is approximately fifty-nine miles. This service is performed by applicant with a 1930 Model V-8 Ford passenger car converted into a small truck, having a freight capacity of one thousand pounds and a seating capacity for two passengers. Applicant also has for use, when necessity requires, a homemade two-wheel trailer, with a capacity of one thousand pounds.

The record shows that there is a need for regular passenger and freight service on the part of the inhabitants in this area, and there is no other regular public means of transportation than the service proposed by applicant. The Postmaster at Madera testified in effect that he had known the applicant for more than fifteen years and that during the past six years in which applicant has been delivering mail, his services have been extraordinarily satisfactory; that there was nothing in the mail contract which would prevent applicant from engaging in this service, in fact, it was contemplated. He was of the opinion that applicant's experience in traveling this route and delivering the mail amply qualified him as a fit and proper person to render the service for which authority was sought. To the same effect was the testimony of various business people in Madera and those living in the area between Madera and Fish Camp. No one opposed the granting of the application.

From a full consideration of the evidence it is found as a fact that public convenience and necessity require the establishment and operation by Charles E. Loveland of an automotive service as a passenger stage corporation between Madera and Fish Camp, and intermediate points. It is also found as a fact, that public convenience and necessity require the establishment and operation by Charles E. Loveland of an automotive truck service as a highway common carrier between Madera and Fish Camp, and intermediate points.

Charles E. Loveland 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.

#### ORDER

Public hearing having been had in the above entitled proceeding, evidence having been received, the matter having been duly submitted, and the Commission being now fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Charles E. Loveland, applicant herein, of

(a) an automotive service for the transportation of property for compensation as a highway common carrier, as that term is defined in Section 2-3/4 of the Public Utilities Act, between Madera and Fish Camp and intermediate points, by way of State Highway No. 41 and River Route Highway; and (b) an automotive service for the transportation of passengers and their baggage as a passenger stage corporation, as that term is defined in Section 2 1/2 of the Public Utilities Act, between Madera and Fish Camp and intermediate points, by way of State Highway No. 41 and River Route Highway.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same hereby is granted to Charles H. Loveland, an individual, applicant herein, to perform the above described service, subject, however, to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall not have complied with all of 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.
2. Applicant shall file a written acceptance of the certificate herein granted within a period not to exceed fifteen (15) days from the date hereof.
3. Applicant shall commence the service herein authorized within a period not to exceed one hundred twenty (120) days from the date hereof, and shall file in triplicate, and concurrently make effective on not less than ten (10) days' notice to the Railroad Commission and to the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders, and containing rules and regulations as shown in Exhibit "A" of application on file herein and submitted in evidence herein, in so far as they conform to the certificate herein granted, or rates satisfactory to the Railroad Commission.
4. Applicant shall file in duplicate and make effective within a period of not to exceed one hundred twenty (120) days after the date hereof on not less than ten (10) days' notice to the Commission and to the public, time schedules as shown in Exhibit "B" of application and submitted in evidence herein covering the service authorized, or time schedules satisfactory to the Railroad Commission.

5. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred or 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 the service herein authorized and continuously thereafter, comply with all of the provisions of the Railroad Commission's General Order No. 91.

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

Dated at San Francisco, California, this 12<sup>th</sup> day of September, 1939.

Robert W. ...  
Frank ...  
Carl ...  
J. ...  
Justus J. ...  
COMMISSIONERS