

Decision No. 35983

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
W. H. SHACKELFORD, doing business as)
KLAMATH AUTO STAGE LINE, for certificate)
and permit to extend his freight and)
passenger stage line from its present)
terminal at Happy Camp, California, a)
distance of 8.7 miles, to Gray Eagle)
mine, California.)
Application No. 25107

In the Matter of the Application of)
WM. A. RUTLEDGE and HUGH VETTEL for a)
certificate of public convenience and)
necessity to operate a passenger,)
property and baggage stage line between)
Hornbrook, California, and Happy Camp,)
California, and Classic Hill Bridge.)
Application No. 25192

W. H. SHACKELFORD, in propria persona.

TEBBE & CORREIA, by J. P. Correia, for
William A. Rutledge and Hugh Vettel.

SACHSE, Commissioner:

FIRST SUPPLEMENTAL OPINION AND ORDER

The Commission by its Order in Decision No. 35793, dated September 22, 1942, in the above entitled matters left for future determination the question as to which of the two applicants should be granted a certificate to perform a common carrier trucking operation between Hornbrook and Happy Camp, a distance of 72 miles, and intermediate points along the Klamath

(1)

River. This supplemental order disposes of this question.

The Commission has been advised by both applicants that they have been unable to agree upon a plan of consolidated operation. As outlined in the prior decision, the Commission stated it would make its further order after allowing the parties a reasonable time to negotiate an agreement looking toward a single common carrier operation down the Klamath River.

(1) Quoting from Decision No. 35793:

"In these proceedings we are dealing with two applicants, one of whom now serves the territory as a highway common carrier, and has performed that service for almost twenty years, while the other has entered into the obligation to carry the mail between the same points for a limited period (four years). The latter asserts that with the mail contract should go the right to serve this territory as a common carrier. The record indicates that the revenue derived from the mail contract alone would not be sufficient to render that operation profitable. And it is equally clear that the traffic, both passenger and freight, moving to and from this territory will not support more than one common carrier. We are therefore called upon to choose between applicant Shackelford, on the one hand, and applicants Rutledge and Vettel, on the other....."

"As stated, Shackelford now serves the territory. Rutledge and Vettel are not now authorized to operate as a common carrier, nor does the fact that they are privileged to handle the mail, standing alone, warrant the extension to them of the right to engage in a common carrier service. Under the circumstances, it is our conclusion that applicants Shackelford, Rutledge and Vettel should submit to the Commission an agreed plan of operation under which but one common carrier would operate between the points involved in these proceedings. Pursuant to this arrangement, the operator of the common carrier service should, if possible, also carry the mail. These applicants have indicated that, if afforded a reasonable period for consideration, they would undertake to arrive at such an understanding. Accordingly, Applications Nos. 25107 and 25192 will be held open until October 31, 1942, to enable applicants to consummate such an agreement and report the result of their negotiations to the Commission."

It appears, that however desirable from the standpoint of rubber saving and elimination of wasteful duplicate service, an agreement between the parties cannot be had. The Commission is without power to compel such agreement. Upon this record it is concluded that the Commission should grant Shackelford a certificate to perform a common carrier operation between Hornbrook and Happy Camp and deny Application No. 25192.

The record shows that Shackelford is now the only certificated common carrier operator between Yreka and Happy Camp, a distance of 74 miles which includes 65 miles of the 72 route miles involved in Application No. 25192. The only portion not included is that section between the river and Hornbrook, a distance of 7 miles. Also the majority of shipments to and from river points have their origin or destination at Yreka.

The record clearly justifies the conclusion that it is in the public interest to grant Shackelford a certificate between Hornbrook and the river which will complete his unified operation between both Yreka and Hornbrook and points along the river, as contrasted to granting the certificate sought in Application No. 25192 between Hornbrook and Happy Camp, thereby authorizing competing operations down the river.

Coincident with the issuance of the certificate to Shackelford, the Commission will institute an investigation into his operations to determine whether or not they have been conducted lawfully.

SUPPLEMENTAL ORDER

Applications having been made as above entitled;
and the Commission being of the opinion, and now finding, that
public convenience and necessity so require:

IT IS ORDERED as follows:

(1) That a certificate of public convenience and necessity
be and it hereby is granted to W. H. Shackelford, doing business
as Klamath Auto Stage Line, authorizing operation of a service
as a highway common carrier, as defined by section 2-3/4 of the
Public Utilities Act, and as a passenger stage corporation, as
defined by section 2 $\frac{1}{2}$ of said Act;

- (a) Between Hornbrook and the junction of
U. S. Highway No. 99 and the Klamath
River Highway situated approximately
six miles south of Hornbrook; in Siskiyou County;
- (b) Within a zone extending laterally five
miles on each side of the highways
traversed by said W. H. Shackelford in
the conduct of his operations as such
highway common carrier and as such
passenger stage corporation between the
junction of U. S. Highway No. 99 and
Klamath River Highway (situated
approximately six miles south of Hornbrook)
on the one hand, and Gray Eagle Mine, via
Happy Camp, on the other hand;

as an extension of, and to be consolidated with, the existing
operative rights of said W. H. Shackelford as such highway common
carrier and as such passenger stage corporation.

Said certificate is granted subject to the following
condition:

W. H. Shackelford, doing business as Klamath Auto Stage Line, his successors or assigns, may never claim before this Commission or any court or other public body, a value, for any purpose, for the certificate herein granted in excess of the actual cost incurred by him in securing said operative authority.

(2) That Application No. 25192 be, and it hereby is, denied.

(3) That in the operation of a service as a highway common carrier and as a passenger stage corporation, said W. H. Shackelford shall comply with and observe the following service regulations:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the date hereof.
2. Applicant shall comply with the provisions of General Orders Nos. 79 and 80 by filing, in triplicate, and concurrently making effective tariffs and time schedules satisfactory to the Commission, within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and the public.
3. Subject to the authority of the Commission to change or modify them at any time by further order, said applicant shall conduct said service over and along the following route:
 - (1) Over U. S. Highway No. 99 between Hornbrook and the junction of said highway with the Klamath River Highway, situated approximately six miles south of Hornbrook.

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.

Dated at San Francisco, California, this 30th
day of October, 1942.

Justus J. Coenen

[Signature]

Frank R. Haven

[Signature]
COMMISSIONERS