

ORIGINAL

Decision No. 39875

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 THOMAS LEONARD to sell and CHARLES H. )  
 LOVELAND to purchase an automotive )  
 passenger and freight line operated ) Application No. 27944  
 between Madera, Madera County, and )  
 Fish Camp, Mariposa County, California.)

O P I N I O N

In this proceeding, Thomas Leonard seeks authority to transfer to Charles H. Loveland, and the latter proposes to acquire from the former, an operative right, both as a highway common carrier and as a passenger-stage corporation, as defined by Sections 2-3/4 and 2 $\frac{1}{2}$ , respectively of the Public Utilities Act.

The certificate authorizing this operation was issued originally to applicant Loveland pursuant to Decision No. 32311, rendered September 12, 1939, in Application No. 22271. By this decision, Loveland (who then carried the mail between the points involved, under a contract with the United States government) was authorized to operate as a highway common carrier and also as a passenger-stage corporation (for the transportation of passengers and baggage) between Madera and Fish Camp and intermediate points, via State Highway No. 41 and the River Route Highway. By Decision No. 35781, rendered September 22, 1942, in Application No. 25124, applicant Leonard, having obtained the mail contract, was authorized to acquire the operative right from Loveland.

Under the terms of an agreement between the parties, dated July 1, 1946, a copy of which accompanies the application, Leonard undertakes to transfer the operative right to Loveland (who in the

meantime has regained the mail contract), in consideration of the payment of the sum of One Dollar, specified therein as the purchase price. Assertedly, operations under this certificate have been conducted continuously since it was issued.

It is requested that the certificate authorizing highway common carrier operations be modified so as to limit the service to the transportation of shipments weighing not in excess of 100 pounds each. The territory served, for the most part, is mountainous in character and sparsely populated. The equipment now used to perform this operation, comprising a Ford V-8 Sedan, is sufficient, so it is stated, to carry the mail and to accommodate the occasional passenger who may desire to travel over this route. Assertedly, this equipment soon will be augmented by the purchase of a station wagon or a one-half ton pickup truck, which would facilitate the performance of the service. None of this equipment, however, is or would be suitable for the transportation of heavy shipments of freight. In this respect, it appears that the territory is adequately served by other carriers, including Huntington Stage Line, a highway common carrier. Under the circumstances, the certificate sought to be transferred will be modified, as requested.

Applicant Loveland also requests that he be relieved from the provisions of the Commission's minimum rate orders, should the weight limitation sought be authorized. The proposed service will be substantially different from operations for which the established minimum rates were primarily designed. It appears to be similar in all essential respects to that of other carriers operating in sparsely settled areas and now exempt from the prescribed minimum rates.

The transfer of the operative right will be authorized, the certificate will be modified so as to impose a weight limitation

upon shipments of freight to be transported, as stated above, and the sought rate exemption will be granted. This is not a matter requiring a public hearing.

O R D E R

Application having been made as above-entitled, the Commission having considered the matter, and it having been found that public convenience and necessity so require,

IT IS ORDERED as follows:

(1) That Thomas Leonard be, and he is, hereby authorized to transfer to Charles H. Loveland, and the latter is hereby authorized to acquire from the former, on or before May 1, 1947, that certain operative right, both as a highway common carrier and as a passenger-stage corporation (as defined by Sections 2-3/4 and 2 $\frac{1}{2}$ , respectively, Public Utilities Act) heretofore acquired by said Thomas Leonard pursuant to Decision No. 35781, rendered September 22, 1942, in Application No. 25124 and granted originally to said Charles H. Loveland by Decision No. 32311, rendered September 12, 1939, in Application No. 22271. Said Charles H. Loveland is hereby authorized, following the acquisition of said operative right, to operate thereunder.

(2) That said certificate, described in Paragraph (1) hereof be, and it is hereby, modified and amended by adding thereto the following restriction, viz:

(a) That no shipment weighing in excess of 100 pounds may be transported by said Charles H. Loveland, or any of his successors, operating as a highway common carrier.

(3) That applicants shall comply with the provisions of

General Orders Nos. 79 and 80 and Part IV of General Order No: 93-A, by filing in triplicate, and concurrently making effective, appropriate tariffs and time tables within 60 days from the effective date hereof, and on not less than one day's notice to the Commission and the public, and that in filing said tariffs applicant Loveland is relieved from the observance of the requirements of Decision No. 31606, as amended, in Case No: 4246.

(4) That in the event such authority to transfer is exercised, said Charles H. Loveland, within 30 days after the consummation of such transfer, shall advise the Commission thereof and shall file with the Commission a copy of any bill of sale or other instrument of transfer, executed under the authority herein granted.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 21st day of January, 1947.

Harold P. Kula  
Justice J. C. Cramer  
Wesley Powell  
A. J. [unclear]

COMMISSIONERS