

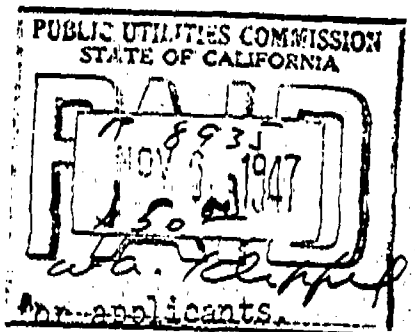
ORIGINAL

Decision No. 40885

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 C. J. and C. E. FORTIER, a copartnership, :
 doing business under the firm name and)
 style of HUNTINGTON STAGE LINES, for :
 authority to sell certain equipment and)
 operative rights, and :
 ALLEN CRESSMAN)
 and :
 LEWIS RODGERS)
 and :
 CLYDE STURGES)
 to purchase operative rights and equipment. :
 -----)

Application
No. 28753



Berol & Handler, by Edward M. Berol, for applicants.

O P I N I O N

In this application as amended at the hearing had on October 22 before Commissioner Potter and Examiner Fankhauser, C. J. and C. E. Fortier, a copartnership doing business under the firm name and style of Huntington Stage Lines, ask permission to sell certain operative rights and properties to Lewis Rodgers and certain other operative rights and properties to Clyde Sturges.

Applicant, Huntington Stage Lines, is a common carrier by motor vehicle, engaged in the transportation of passengers and property between Fresno and Florence Lake and intermediate points; and for the transportation of property between Fresno and Kingsburg; and between Fresno and Reedley; between Fresno and Bass Lake; between Fresno and General Grant National Park, together with intermediate points in each instance. Said operative rights

were transferred to applicant by Decision No. 31838, dated March 20, 1939, in Application No. 22609. Pursuant to the authority granted by Decision No. 32782, dated February 6, 1940, in Application No. 23217, applicant engages in the transportation of property between Fresno and Fish Camp, and intermediate points. Pursuant to the authority granted by Decision No. 40583, dated August 5, 1947, in Application No. 28491, applicant engages in the transportation of property between Fish Camp and Wawona and intermediate points, between Bass Lake and Clover Meadows and intermediate points, between Auberry and Northfork and intermediate points, between Auberry Road and Friant and intermediate points, between Centerville and Minkler, on the one hand, and Dinkey Meadow, on the other hand, and intermediate points, between Trimmer and Watts Valley and intermediate points, between Wilsonia and Hume Lake and intermediate points, and between Hume Lake and Cedar Grove and intermediate points.

Applicant, Huntington Stage Lines, has agreed to sell to Lewis Rodgers for \$10,750 the following described properties:

"A. Operative rights as follows:

1. The operative rights between Fresno, Oneals, Fine Gold, Adobe, North Fork, The Pines, Friant, South Fork, and Indian Mission; that such operative rights were acquired by applicant's predecessor, Huntington Stage Lines, Inc. from Bennett Freight Line, on Application No. 20544, Decision No. 28827, dated May 18, 1936.
2. The operative rights set forth in Decision No. 32782, on Application No. 23217, dated February 6, 1940, as follows:
 - (a) Between Fresno and Lane's Bridge, via State Highway Route No. 168; between Lane's Bridge and Kelshaw Corners, via unnumbered highway; between Kelshaw Corners and Fish Camp, via State Highway Route No. 41; and

(b) Between Fresno and Lane's Bridge, via State Highway Route No. 168; between Lane's Bridge and Kelshaw Corners, via unnumbered highway; between Kelshaw Corners and Oakhurst, via State Highway Route No. 41; between Oakhurst and Fish Camp, via unnumbered highway through Ahwahnee. (NOTE: The reference to State Highway No. 168 is in error; it should be No. 41.)

3. The operative rights set forth in Decision No. 40583, on Application No. 28491, dated August 5, 1947, as follows:

- (a) Between Fish Camp and Wawona and intermediate points;
- (b) Between Bass Lake and Clover Meadows and intermediate points;
- (c) Between Auberry and Northfork and intermediate points;
- (d) Between Auberry Road and Friant and intermediate points.

"B. Property as follows:

- 1. One 1937 International Truck, Serial Number DS35-915.
- 2. One 1945 International 6 Truck, Engine Number 36927-146."

Applicant, Lewis Rodgers, has been employed by Huntington Stage Lines for more than ten years and is familiar with the properties he has agreed to purchase. Of the purchase price he will pay \$3,000 in cash. The remainder is payable in 36 equal monthly installments. The deferred payments will bear interest at the rate of 5% per annum, and will be secured by a chattel mortgage, a copy of which is on file in this application. There is also on file in this application a copy of the agreement of sale between Huntington Stage Lines and Lewis Rodgers, said agreement being marked Exhibit "B".

Applicant, Lewis Rodgers, requests the Commission to grant him a certificate of public convenience and necessity in

place of the operative rights he will acquire under the proposed agreement of sale. The order herein will grant such request, and define his operative rights.

Applicant, Huntington Stage Lines, asks permission to sell to Clyde Sturges the following described properties:

"A. Operative rights as follows:

1. The operative rights set forth in Decision No. 22717, on Application No. 16743, dated July 25, 1930, as follows:

- (a) Between Fresno and Clovis, via Blackstone and Shaw Avenues, thence via Academy, Humphreys, Toll House and Pine Ridge, thence over the main highway to Florence Lake, via Big Creek and Huntington Lake, serving Camp 80 by diversion; and
- (b) Between Clovis and Pine Ridge, via Sharpsville, Grabners, Prather, Old Auberry and New Auberry, thence as set forth in Route (a);

2. Above operative rights amended by Decision No. 25371, on Application No. 16743, dated November 21, 1932, as follows:

Applicant's route is altered to permit the use of Blackstone and Herndon Avenues, thereby serving Pinedale, instead of Blackstone and Shaw Avenues, and it is also authorized to service by diversion from Toll House Road, Watts Valley via Borough and also to operate service between Clovis and Toll House via Lodge Road and Morgan Canyon Road.

3. The operative rights set forth in Decision No. 28736, on Application No. 20467, dated April 20, 1936, as follows:

'****transportation of passengers, baggage, express and freight as a highway common carrier for compensation between Fresno and Dinkey by an extension from either Ockenden or Shaver Lake Heights.'

4. The operative rights set forth in Decision No. 40583, on Application No. 28491, dated August 5, 1947, as follows:

- (a) From Fresno to Dinkey Meadow, via Minkler and Centerville and intermediate points;

NOTE: Huntington Stage Lines was authorized to provide a service between Centerville and Minkler on the one hand, and Dinkey Meadow, and intermediate points, in Decision No. 40583, on Application No. 28491, dated August 5, 1947. This had the effect of providing a new route from Fresno to Dinkey Meadow via Centerville and Minkler. This is the route involved here. This is also the reason why Centerville and Minkler were excluded as the points to be served on the run between Fresno and General Grant National Park, that being the subject of the proposed transfer to Allen Cressman.

- (b) Between Trimmer and Watts Valley and intermediate points.

"B. Property as follows:

1. One 1944 International 6 Truck, Engine No. 269-10516.
2. One 1945 International 6 Truck, Engine No. 269-17365.
3. One 1939 Chevrolet Station Wagon, Engine No. 2399101."

Applicant, Clyde Sturges, has been employed by Huntington Stage Lines for many years. He has agreed to pay for the aforesaid properties \$22,500. Of this amount he will pay \$8,000 in cash. The remainder he will pay in 36 equal monthly installments with interest at the rate of 5% per annum. The deferred payments will be secured by a chattel mortgage, a copy of which is on file in this application. A copy of the agreement of sale between Huntington Stage Lines and Clyde Sturges is on file as Exhibit "C".

Applicant, Clyde Sturges, likewise requests the Commission to grant him a certificate of public convenience and necessity in place of the operative rights which he will acquire under the proposed agreement of sale. The order herein will grant such request, and define his operative rights.

The record shows that the operating revenues from business conducted over the routes to be sold to applicant, Lewis Rodgers, was \$22,141.94 for the year ended August 31, 1947, and from business conducted over the routes to be sold to applicant, Clyde Sturges, \$38,444.48.

Applicant, Huntington Stage Lines, will retain for the time being operative rights authorizing it to transport property between Fresno and Cedar Grove and intermediate points, between Fresno and Kingsburg via Fowler and Selma, and between Fresno and Reedley via Del Rey and Parlier.

Applicants, Lewis Rodgers and Clyde Sturges, are hereby placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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.

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

O R D E R

The Commission has considered the evidence submitted in this matter and is of the opinion that the money, property or labor to be procured or paid for by the execution of the agreements of sale referred to in the foregoing opinion is reasonably required by applicants, Lewis Rodgers and Clyde Sturges, for the purposes herein stated, and that this application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. C. J. and C. E. Fortier, copartners, doing business under the firm name and style of Huntington Stage Lines, may, after the effective date hereof and on or before December 31, 1947, sell to Lewis Rodgers and to Clyde Sturges the properties described in the agreements of sale on file in this application as Exhibits "B" and "C", respectively, said sales to be made pursuant to the terms and conditions of said agreements. Said Lewis Rodgers and said Clyde Sturges may execute chattel mortgages in form substantially the same as those on file in this application to secure the payment of the amounts due under said agreements of sale.

2. In the place and stead of the operative rights referred to in said Exhibit "B", the Commission hereby grants to Lewis Rodgers a new certificate of public convenience and necessity authorizing him to engage in the transportation of property between the points and over the routes as follows:

"Between Fresno and Wawona via State Highway No. 41; and also via Friant, Oneals, North Fork and Bass Lake; and all intermediate points.

Between Bass Lake and Wishon Powerhouse on the San Joaquin River, and all intermediate points, on an on call basis.

Service is authorized by diversion to and from South Fork and Indian Mission.

Between Bass Lake and Clover (Clover) Meadows and intermediate points, on an on call basis.

Between Auberry Road and Friant and intermediate points, on an on call basis.

The main roads connecting the aforementioned routes and points located thereon."

3. In the place and stead of the operative rights described in said Exhibit "C", the Commission hereby grants to Clyde Sturges a new certificate of public convenience and necessity authorizing him to engage in the transportation of persons and property between the points and over the routes as follows:

"A. For the Transportation of Property:

Between Fresno and Florence Lake, via Ventura Avenue, Clovis Avenue, Clovis, Prather, Auberry, Pine Ridge, Shaver Lake, and Big Creek, and all intermediate points.

By diversion between Auberry and the San Joaquin River via New Auberry; Camp 80; on an on call basis.

Between Clovis and Pine Ridge via State Highway 168, serving all intermediate points.

Between Fresno and Dinkey Meadow via Centerville, Piedra, and Trimmer; and via Minkler, Piedra, and Trimmer; serving all intermediate points.

The main roads connecting the aforementioned routes and points located thereon.

B. For the Transportation of Passengers and their Baggage:

Between Fresno and Florence Lake, via Ventura Avenue, Clovis Avenue, Clovis, Prather, Auberry, Pine Ridge, Shaver Lake, and Big Creek, and all intermediate points; subject to the restriction that no service is authorized for

passengers having both origin and destination between Fresno and Clovis, inclusive.

Between Fresno and Florence Lake, via Clovis and Highway 168; subject to the restriction that no service is authorized for passengers having both origin and destination between Fresno and Clovis, inclusive."

4. Upon the execution of said agreements of sale and the acceptance of the new certificates of public convenience and necessity herein granted by said Lewis Rodgers and said Clyde Sturges, the operative rights described in the agreements of sale filed as Exhibits "B" and "C" are revoked and annulled.

5. Applicants shall comply with the provisions of General Orders No. 79 and No. 80 and Part IV of General Order No. 93-A, by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and to the public.

6. Within sixty (60) days after the effective date hereof, said Lewis Rodgers and said Clyde Sturges shall file with the Commission an acceptance of the certificates herein granted to them.

7. The authority herein granted will become effective when said Lewis Rodgers and said Clyde Sturges have paid the fee prescribed by Section 57 of the Public Utilities Act.

Dated at San Francisco, California, this 4th day
of November, 1947.

Harold P. Hala
Justice J. Garner
John H. Russell
R. Z. [unclear]

Commissioners