

**ORIGINAL**

Decision No. 44672

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission investigation into the operations, services, and practices of P. B. HACKLEY, JR., doing business as MENDOCINO TRANSIT LINES.

Case No. 5183

In the Matter of the Application of RUSSELL L. CORDER and J. H. THOMAS, individuals, doing business under the name and style of Fort Bragg-Santa Rosa Stages, for a certificate of public convenience and necessity to operate a common carrier passenger stage service between Santa Rosa, California, and Fort Bragg, California, and intermediate points via U. S. Highway 101 and California State Highway Nos. 28 and 1, and between Rockport and Petaluma and intermediate points via California State Highway No. 1 and the County Road between Tomales Junction and Petaluma.

Application 31041

In the Matter of the Application of M. R. WOODS, an individual, D.B.A. ARCADIA STAGE LINE, for a certificate to operate a passenger stage service between Cotati and Rockport and Fort Bragg to Santa Rosa.

Application 31088

P. B. Hackley, Jr. in propria persona respondent in Case No. 5183 and protestant in both Applications; JEROME J. CAMILL for R. L. Corder and J. H. Thomas in Application No. 31041 and protestant in Application No. 31088; M. R. WOODS in propria persona in Application No. 31088 and protestant in Application No. 31041; EDSON ABEL for California Farm Bureau Federation, Mendocino County Farm Bureau, Sonoma County Farm Bureau, Point Arena-Manchester Farm Center, interested parties in all the proceedings. HAROLD J. MCCARTHY for the Commission in Case No. 5183.

O P I N I O N

In Case No. 5183 the Commission instituted an investi-

gation on its own motion into the operations, services and practices of P. B. Hackley, Jr., doing business as Mendocino Transit Lines, hereinafter referred to as respondent.

Russell L. Corder and J. H. Thomas, partners, by Application No. 31041, as amended, request authority to operate a passenger stage service for the transportation of passengers and their baggage between Santa Rosa and Fort Bragg, and intermediate points via Cloverdale, and between Petaluma and Rockport and intermediate points via Point Arena and Fort Bragg.

In Application No. 31088 M. R. Woods requests a certificate of public convenience and necessity to operate a passenger stage service between the same points as proposed by applicant Corder & Thomas and in addition seeks authority to operate between Petaluma and Cotati. All of these points, except between Petaluma and Cotati, are within the scope of the operative authority of respondent Hackley.

A public hearing was held in Fort Bragg on March 22 and 23, 1950, before Commissioner Craemer and Examiner Paul at which oral and documentary evidence was received and the matters were submitted. They were consolidated for the receipt of evidence and the issuance of a decision.

Respondent Hackley holds certificates of public convenience and necessity authorizing a passenger stage service between Santa Rosa, Fort Bragg and intermediate points via Cloverdale and Booneville and between Petaluma, Leggett Valley and intermediate points

(1)  
via Point Arena and Fort Bragg. The Commission's investigation was instituted on its own motion to determine whether the services and practices of respondent have been adequate as to public convenience and necessity and performed in compliance with the provisions of the Public Utilities Act of the State of California and the Commission's General Order No. 93-A.

An assistant transportation engineer for the Commission testified that he had inspected respondent's equipment on approximately seven occasions prior to the hearing; that the first inspection revealed it to be in fair condition and that its condition gradually declined during that period. He further testified that on January 25, 1950, he observed a 1941 year model five passenger Chevrolet sedan being used on the operation between Fort Bragg and Petaluma and that at that time no report of such use had been filed with the Commission as required by the Commission's General Order No. 93-A. The witness said he again observed the same vehicle on March 17, 1950, with a trailer attached, which in his opinion was a violation of Rule 2.09 of General Order No. 93-A. On this occasion, according to the witness, seven passengers presented themselves for transportation and were loaded into the five passenger car.

An officer of the California Highway Patrol testified that on December 27, 1949, he stopped a bus of respondent on Highway

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At the time of institution of the investigation respondent also held certificates authorizing passenger stage operations between Booneville, Ukiah, Willits, Colusa, Williams, Woodland, Rumsey, Wilbur Springs Junction and intermediate points created by Dec. No. 39454 in Application No. 26923 and Dec. No. 39451 in Application No. 27522.

Upon respondent's application (Application No. 31110) he was authorized to abandon operations between these points and the operative rights were revoked and annulled. (Dec. No. 44342 dated June 20, 1950).

No. 28 between Philo and Navarro and issued a citation to the driver, which included respondent, charging failure of headlights, inadequate tail lights, inadequate brakes, no clearance lights, unsafe equipment and broken rear spring. On February 9, 1950, said the witness, he again issued a citation to the same driver, and including respondent, in connection with the same bus charging unsafe equipment, side door tied with wire, exhaust fumes excessive in the bus and no evidence of 1950 registration. The witness further testified that on February 19, 1950, he issued another citation to respondent involving the same vehicle. This citation was issued because of excessive exhaust fumes in the passenger compartment and the circumstance that the floor mat in the driver's compartment was lying on the head of the engine. According to this witness he observed a break down of one of respondent's buses three miles north of Philo at about 7 p.m. or 8 p.m. December 30, 1949, and that he transported three passengers to the hotel in Navarro to await transportation.

A resident of Point Arena, stated that he was returning from San Francisco on February 17, 1950. At Petaluma he was informed that respondent's schedule to Point Arena would not be operated. In order to reach Point Arena from Petaluma he was compelled to employ a taxi cab at a very substantial charge. Another witness from Fort Bragg testified that on December 19, 1949, she began a trip from Fort Bragg to San Francisco, and while riding on one of respondent's buses it broke down between Fort Bragg and Jenner. She was obliged to obtain private transportation to Petaluma, where she remained overnight, although she had planned to reach San Francisco that evening.

The former agent for Pacific Greyhound Lines at Gualala,

who maintains and operates a grocery business at that place, testified that he would not act as agent for respondent because of the inadequate service rendered. It was stipulated by the parties and respondent that seven persons present, if called as witnesses, would testify in substance that respondent's service is inadequate and unsatisfactory. Petitions signed by residents from points principally on the coast route, were introduced in evidence and in substance indicated the same criticism and dissatisfaction with respondent's service. A representative of the City Council of Point Arena testified that the Council passed a resolution February 7, 1950, declaring respondent's service to be unsatisfactory.

A former driver for respondent testified that he had been so employed from July 15, 1949, to February 28, 1950. He drove the schedule between Fort Bragg and Petaluma, using his wife's 1941 Chevrolet sedan, which was leased to respondent under an oral agreement. No written agreement was executed, he stated, although a copy of a proposed agreement in writing subsequently had been mailed to him and his wife which they did not execute. A copy of the proposed lease had been mailed to the Commission at the same time it had been mailed to the witness and his wife. According to the witness the car was used to transport more than five passengers on various occasions, which required at least one passenger to sit on the lap of another. The trailer was used to transport express. The witness said that, upon leaving the employ of respondent, he filed a claim with the Labor Commissioner for unpaid wages in the amount of \$879.

The testimony of another former driver of respondent was to the effect that he was employed by respondent from June 1, 1949, to March 14, 1950; that he was driving schedule No. 2 from Fort Bragg to Santa Rosa on September 25, 1949, and while driving over a

section of wet highway under reconstruction, the bus began to slip and slid against an automobile. The damage to the latter was fixed at \$140. The witness expressed the opinion that the brake on one of the rear wheels of the bus was faulty. He stated that the day previous to this accident there was a leak in the diaphragm of the brake asserted to be faulty; that said diaphragm was replaced lacking one part to be obtained later. According to the witness, respondent permitted the bus to be operated knowing that one brake was defective. This driver witness stated that at a later time he was supervising a student driver on the Santa Rosa-Fort Bragg run. The student permitted the bus on a downgrade to go into a ditch alongside the highway. The bus struck a rock and overturned. The sixteen passengers aboard were taken to their destinations by other means. Upon inquiry at that time by the witness, no passenger claimed to have been injured. Later, according to the record, one of those passengers, through her attorney, filed an action against respondent claiming injury. That action, as far as the record shows, is undetermined. On another occasion, the witness said, he refused to operate a bus because it had but one tire on each of the rear dual wheels which in his opinion should have had dual tires. Respondent, this witness claims, still owes him back wages in an amount between \$250 and \$300.

Affidavits executed by agents at various depots served by respondent were to the effect that respondent failed to provide

service to or from those depots on specified dates. (2)

A representative from the Federal Bureau of Internal Revenue testified that recorded liens on property of respondent show that he is indebted to the United States Government in the amount of \$16,624.92. An agent for the State Comptroller's office testified that respondent is indebted to the State of California in the amount of \$2,009.56; that his Board of Equalization permit was revoked on May 18, 1948, and according to their records had not been reinstated.

Respondent testifying in his own behalf stated that he is presently operating four pieces of equipment; (3) that the Chevrolet sedan is not now in use; that at the time it was being used he was negotiating a written lease, which when ready was mailed to the lessor and to the Commission at the same time; that the lease was never executed and shortly thereafter the vehicle was taken out of operation; that, in his opinion, use of a trailer attached to a sedan was not a violation of Rule 2.09 of General Order No. 93-A. He further testified that he has arranged with the Board of Equalization to pay his indebtedness to the State of California at the rate of approximately \$250 a month, which amount is being paid monthly by Pacific Greyhound Lines to said Board from funds received by that

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Exhibit No. 14 - J. M. Edge, agent for Pacific Greyhound Lines, City of Woodland, failed to provide service on February 20 and 27, March 6 and 13, 1950.

Exhibit No. 15 - Elaine Tamphise, agent for Pacific Greyhound Lines, City of Colusa, failed to provide service on February 14, 21 and 28, 1950.

Exhibit No. 16 - Pearl Monett, agent for Pacific Greyhound Lines, City of Petaluma, failed to provide service February 14, 15, 16 and 17, March 1, 2, 3, 4, 5, 6, 7, and 8, 1950.

- (3) One 21 passenger Intercity Bus No. 4, 1942.  
 One 25 " " " No. 6, 1943.  
 One 28 " " " No. 12, 1947.  
 One 16 " " " No. 8, 1940.

company from sales of transportation over respondent's lines; that when the taxes which are due have been paid his permit will be reinstated upon the payment of a five dollar fee. He admitted that the Petaluma-Fort-Bragg-Leggett Valley operation is substandard, but contended that the fares applicable to that route of operation were too low to produce sufficient revenue to meet the costs thereof; that the present passenger revenue therefrom amounts to 5.4 cents per bus mile and express revenue amounts to 1.7 cents per bus mile, whereas operating costs amount to 17.6 cents per bus mile; that it has been necessary to take money from other operations to pay the deficit on the Fort Bragg-Petaluma run; and that he has filed with the Commission an application seeking authority to increase the fares over this route, which, if granted, he expects to produce sufficient increased revenues to enable him to provide an adequate and satisfactory service over said line. He pointed out that his predecessor on this route was operating thereon at a loss of approximately \$1,000 a month. Respondent stated that he failed to provide service between Petaluma and Fort Bragg on only 12 scheduled days during the period of 253 days from July 13, 1949, to March 22, 1950. This, so he asserted in effect, showed much fewer failures of service over that route than there had been by his predecessor. Respondent contended that the accident which occurred on September 25, 1949, was not due to faulty brakes; that, in his opinion, the three wheel brakes were adequate; and that the direct cause of said accident was the wet condition of the highway and loose rocks. He stated that he has operated over two million miles without a serious accident. According to respondent the interruption of service to Willits during the recent winter months was because the roads were too dangerous and unsafe for operation. He testified that funds from the sale of certain real estate added to his claim for a \$1,100



refund will reduce his debt to the United States Government by \$8,100. Respondent said that he is presently negotiating for the sale of his Napa operations, which if consummated will enable him to further reduce his indebtedness; that he has on file with this Commission an application to abandon his operations between Booneville and Williams; Williams and Colusa and Wilbur Springs Junction and Woodland; that these operations have been unprofitable and a drain upon the remainder of his operations; that his liabilities amount to approximately \$44,000 and his net assets to approximately \$50,000; and that in his opinion the criticism of his operations has been grossly unfair.

A review of the evidence produced in this proceeding with respect to respondent shows violations of some of the rules of General Order No. 93-A as detailed above. A large proportion of these violations have been of a relatively minor nature.

Service over the coast route via Point Arena, in our opinion, has been below a reasonably adequate standard to meet the public needs. Service over the Santa Rosa-Fort Bragg route, which respondent has operated more than nine years, has been maintained at a higher standard of adequacy. However, the record shows that in more recent months there have been some equipment failures causing late arrivals at scheduled points.

While the record shows that respondent's liabilities are substantially as stated by him, it is our opinion that the net value of his assets is considerably overstated. Respondent is not

pressed for payment of an account of about \$10,000. Some other obligations are being paid under arrangement heretofore made and plans are under formulation to pay the remainder.

In November 1945 respondent obtained a certificate extending his service from Booneville to Williams on U. S. Highway 99 W. In October 1946 he acquired operative rights extending from Williams to Colusa, Rumsey, Woodland and other Sacramento Valley points. The record shows that these extended rights have been operated at a constant loss thus creating a serious burden on his operations between Santa Rosa and Fort Bragg. As noted in the margin, supra, the operations between Booneville and Sacramento Valley points have been discontinued. Later in June 1949 respondent was authorized to acquire the operation between Petaluma, Fort Bragg, Rockport and Leggett Valley. The level of fares on this sparsely populated route of operation is below that of the Santa Rosa-Fort Bragg operation and, according to the evidence, the costs of operation have exceeded the revenues. Respondent in attempting to operate these two non-paying lines in the face of a general decline in traffic has permitted a deterioration of all services.

It is evident from the facts developed in this proceeding concerning the operations and services of respondent, that the public interest requires that steps should be taken to assure residents along the coast route between Petaluma and Fort Bragg of an

adequate passenger stage service. We are convinced on this record that this can be accomplished by requiring Pacific Greyhound Lines to fulfill the terms of its stipulation entered in Application No. 29974, Decision No. 43034, (June 21, 1949) by filing an appropriate application to provide service between Petaluma and Leggett Valley, and intermediate points via Point Arena and Fort Bragg. This it will be expected to do at once.

Respondent will be expected to eliminate the causes of failures in service on the Santa Rosa-Fort Bragg route. He should do all things needed to provide a minimum adequacy of service between those points and the action taken here shall not be construed by him as permission to defer making the improvements in service which the record shows to be necessary. This he should be able to do by being relieved of the unprofitable operation between Petaluma and Leggett Valley which the record shows is an undue burden on his operations between Santa Rosa and Fort Bragg. Respondent will be required to file with the Commission a semi-monthly statement of terminal departures and arrivals of all schedules between Santa Rosa and Fort Bragg. He will also be required to file with the Commission semi-monthly reports of payments made on overdue obligations and semi-monthly reports of the condition of equipment being operated.

The two applicants seek certificates between Santa Rosa and Fort Bragg via Cloverdale, and between Petaluma and Rockport via Point Arena and Fort Bragg, routes and points presently served by respondent. Each of the applicants testified with respect to the applications. Neither called any public witnesses nor produced any evidence in support of a competitive service. Both relied upon the record made in the Commission's investigation of respondent to support a conclusion that one should

receive a certificate to establish service as proposed. Based upon the evidence of record and the action here taken, the applications will be denied.

After full consideration of all the evidence of record we find as a fact that respondent has failed to provide a satisfactory passenger stage service between Petaluma, Fort Bragg, Leggett Valley and intermediate points. We further find as a fact that the financial condition of respondent is such that he cannot provide a satisfactory service between those points. Based upon such findings it is our conclusion that the passenger stage operative rights of respondent between Petaluma, Fort Bragg, Leggett Valley and intermediate points acquired by respondent pursuant to authority of the Commission in Decision No. 43034 should be revoked and annulled.

O R D E R

A public hearing having been had in the above-entitled proceedings, evidence having been received and fully considered, the Commission now being fully advised therein and basing this order upon the conclusions and findings set forth in the foregoing opinion,

IT IS ORDERED:

(1) That the operative rights acquired by P. B. Hackley, Jr., between Petaluma and Leggett Valley via Two Rock, Fort Bragg and Rockport pursuant to Decision No. 43034 in Application No. 29974, are hereby revoked and annulled, and that all effective tariffs and time schedules applicable to such operative rights on file with the Commission in the name of P. B. Hackley, Jr., are hereby canceled. However, such revocation and annulment shall not become effective until Pacific Greyhound Lines shall, in keeping with the spirit

of Decision No. 43034 of June 21, 1949 and of the stipulation entered into by said company pursuant to paragraph 1(a) of the order in said decision, file at least five days prior to the effective date of this decision an application for authority to operate as a passenger stage corporation between the points herein involved and shall indicate its willingness in such application to undertake such service immediately upon the effective date of this order.

(2) That respondent P. B. Hackley, Jr., shall file with the Commission not later than 30 days after the effective date of this order, and thereafter at 30-day intervals until further order of the Commission, a statement showing the daily terminal departures and arrivals of all schedules operated between Santa Rosa and Fort Bragg.

(3) That respondent P. B. Hackley, Jr., shall file with the Commission not later than 30 days after the effective date hereof, and thereafter at 30-day intervals until further order of the Commission, a statement of each unit of equipment used between Santa Rosa and Fort Bragg showing the condition of such equipment.

(4) That respondent P. B. Hackley, Jr., shall file with the Commission within 30 days after the effective date hereof, a statement showing amounts paid on overdue obligations as referred to in the opinion hereof and thereafter shall file a similar statement at 30-day intervals until further order of the Commission.

(5) That the reports required by the provisions of paragraphs (2), (3) and (4) hereof shall be verified by the sworn affidavit of respondent or his agent.

IT IS HEREBY FURTHER ORDERED that Applications Nos. 31041 and 31088 be and they are hereby denied.

The Secretary is directed to cause a certified copy of this order to be served forthwith upon Pacific Greyhound Lines as well as upon the parties of record herein.

The effective date of this order shall be 30 days after the date hereof.

Dated at San Francisco, California, this 15<sup>th</sup> day of August, 1950.

R. F. Ingraham  
Justice J. Cooney  
Robert J. Quinn  
Harold T. Kule  
Francis H. Totten  
 COMMISSIONERS