

ORIGINAL

Decision No. 47929

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Commission investigation into the)	
operations, services and practices)	Case No. 5376
of P. B. HACKLEY, JR., doing)	
business as Mendocino Transit Lines.))	

R. W. Achor of Geary Sprigden and Moskowitz,
for respondent.
John Power, for the Commission.
Frank L. Phelan for Fort Bragg Lions Club,
interested party.

O P I N I O N

This is an investigation on the Commission's own motion into the operations, services and practices of P. B. Hackley, Jr., doing business as Mendocino Transit Lines, for the purpose of determining whether or not the passenger stage operative rights of respondent Hackley should be revoked, cancelled or suspended for failure:

(a) to make the periodical reports to the Commission as required by Decision No. 44672 dated August 15, 1950 in Case No. 5183;

(b) to provide insurance against liability resulting from bodily injury (including death resulting therefrom) and property damage as required by the Commission's General Order No. 101;

(c) to comply with certain of the provisions of the Commission's General Order No. 98 relating to safety of operations and

(d) to provide adequate service.

A public hearing in this proceeding was held before Examiner Paul at Santa Rosa, California, on August 7, 1952 and the matter was submitted.

Pursuant to certificates issued by this Commission, P. B. Hackley, Jr., hereinafter sometimes referred to as respondent, conducts passenger stage service between Fort Bragg and Santa Rosa subject to certain restrictions. Respondent also has a separate passenger stage operative right (Decision No. 36293, Application No. 25073) authorizing the transportation of passenger, baggage and express between Fort Bragg and Willits and intermediate points exclusive of through express service between terminals.

We shall first discuss the evidence with respect to the allegation that respondent failed to make the periodical reports required by said Decision No. 44672. This decision was issued in Case No. 5183 and, among other things, required respondent to file three different reports with the Commission not later than thirty (30) days after the effective date of that decision and thereafter at thirty (30) day intervals until further order of the Commission. Of the three reports one was to show the daily terminal departures and arrivals of all schedules operating between Santa Rosa and Fort Bragg; another was to identify each unit of equipment used between those termini and the condition of such equipment and the third report was to show the amounts paid on overdue obligations. The order of said Decision No. 44672 also requires that each of these statements be verified by respondent or his agent.

Oral and documentary evidence was introduced through a member of the Commission's Transportation Engineering staff and a deputy internal revenue collector. In general, the Commission witness testified that numerous written and oral requests have been made to respondent to comply with the provisions of said Decision No. 44672; that not until March 21, 1951 was any attempt made by respondent to comply therewith; that on March 23, 1951 a

report dated March 21 was received which was unverified and showed the arrivals and departures of schedules between Fort Bragg and Santa Rosa for the months of September, October and November, 1950. (Exhibit No. 3). The witness said that on April 6, 1951 an unverified report dated April 4, 1951 was received which identified the equipment and condition thereof used during the months of January and February 1951 and stated the amounts paid on overdue obligations and the daily terminal departures and arrivals at Fort Bragg and Santa Rosa during the months of January and February 1951. The evidence shows that the next report filed by respondent as required by said Decision No. 46772, was not received until June 10, 1952. (Exhibit No. 5). This is the only verified report received from respondent and shows departures and arrivals between Santa Rosa and Fort Bragg for the month of May 1952, busses used and their condition and a statement that no payments were made on overdue obligations.

A witness from the Bureau of Internal Revenue testified that respondent is in arrears with respect to payments to the Bureau of withholding, wage, excise and transportation taxes in an amount in excess of \$13,000. However, so he said, that amount represents a considerable reduction in the amount owing two years previously. The witness further stated that respondent has been keeping his current transportation taxes paid for the last two years but there have been no withholding taxes during that time.

The Commission's witness testified that an investigation made by him disclosed that respondent did not, until August 2, 1952, file evidence of public liability and property damage insurance with the Commission as required by General Order No. 101, adopted October 2, 1951 and effective January 1, 1952.

The Commission witness further testified that a request had been made of respondent to report to the Commission whether he had complied with the provisions of Rule 10.30 of the Commission's General Order No. 98 requiring the installation of a check valve in pneumatic brake systems, that respondent made no reply to such written requests and that a personal inquiry of respondent elicited a promise to make the report but to date respondent has failed to do so.

While there was some evidence in regard to the adequacy of the service maintained between Santa Rosa and Fort Bragg it is of an inconsequential nature. However, respondent testified that several months prior to the hearing he had suspended operations between Fort Bragg and Willits as "...the road became impractical to use for bus operations." Respondent said that the road between those points is under construction and realignment and is paved, with the exception of four miles. He said he plans to reestablish service between those points when the highway reconstruction is completed. It is planned, so he said, to establish a daily service with equipment which he now owns.

As justification for his failure to make timely reports as required by Decision No. 44672, respondent in effect stated that because of insufficient revenues from the operation he had been compelled to conduct it without the employment of drivers and with only a limited amount of clerical assistance. The requirement to continue those reports imposes an unnecessary additional burden upon him. In our view the requirement to file those monthly reports has served its purpose and should be abrogated. This will be accomplished by the issuance of a supplemental order in Case No. 5183.

The record shows that respondent now has on file with the Commission public liability and property damage insurance as required by General Order No. 101. We are compelled to observe that such filing was not made until approximately three months after the institution of this investigation and service of notice thereof upon respondent. The terms of said General Order No. 101 are clear. Respondent is hereby placed upon notice that any failure to comply with that order will result in the automatic suspension of his operative rights.¹

With respect to the operation between Fort Bragg and Willits the evidence is clear that service between those points has been discontinued for a substantial period of time without authorization. We therefore find that respondent Hackley is no longer conducting service between those points and has abandoned passenger stage operations between the points named and the operative right therefor created by Decision No. 36293 in Application No. 25073 will be revoked and annulled as provided for in the order following. This investigation in all other respects will be discontinued.

¹ Paragraph (9) of General Order No. 101 reads as follows:

"(9) The cancellation or suspension of a policy of insurance or surety bond or the cancellation, suspension or surrender of a certificate of self-insurance issued by this Commission or the Interstate Commerce Commission shall immediately suspend the operating authority of the affected passenger stage corporation and no operation shall be conducted on any highway of the State of California until a policy or certificate of insurance, certificate of self-insurance coverage, bond, or the other securities or agreements of indemnity hereinabove specified, shall become effective and be accepted by and filed with the Commission."

O R D E R

A public hearing having been held in the above-entitled proceeding, oral and documentary evidence introduced therein and it having been found that respondent P. B. Hackley, Jr. has discontinued and abandoned passenger stage operations between Fort Bragg and Willits and intermediate points,

IT IS HEREBY ORDERED that the certificate of public convenience and necessity issued by Decision No. 36293 in Application No. 25073 is hereby revoked and annulled and all effective tariffs and timetables applicable to those points on file in the name of P. B. Hackley, Jr. are hereby cancelled.

In all other respects this proceeding is hereby discontinued.

The secretary is directed to cause a certified copy of this order to be served upon respondent P. B. Hackley, Jr.

Dated at San Francisco California, this 18th day of November, 1952.

A. J. [Signature]
 President

Harold [Signature]

[Signature]

[Signature]

 Commissioners