

**ORIGINAL**Decision No. 58959

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
HUMBOLDT MOTOR STAGES, INC., and	)	
WILBUR N. MENDENHALL and WALTER E.	)	
MENDENHALL, partners doing business	)	
as MENDENHALL TRANSPORTATION CO.,	)	Application No. 35909
for authority for the former to	)	
transfer, and the latter to acquire,	)	
certain operative rights.	)	

O P I N I O N

In the above-entitled matter Humboldt Motor Stages, Inc., and Wilbur N. and Walter E. Mendenhall, partners doing business as Mendenhall Transportation Co., request the Commission to authorize the former to sell and the latter to acquire and thereafter operate the passenger stage service established pursuant to the operative rights created by Decision No. 48736 in Application No. 34256 and Decision No. 31835 in Application No. 22512. Five units of passenger stage equipment would also be transferred.

Of the passenger stage operative rights the one created by said Decision No. 48736 authorizes the transportation of passengers, baggage and packages of express weighing 100 pounds or less between Scotia, Korbek and Trinidad and intermediate points via Eureka, Bayside and Arcata. The other right created by Decision No. 31835 authorizes a continuous round-trip sightseeing service over four routes beginning and ending in Eureka. <sup>1/</sup> The buyers request a consolidation of the operative rights involved herein with those

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<sup>1/</sup> The application states the described rights and equipment will be transferred as soon as the transfer of certain operative rights by Walter E. Mendenhall is made to the partnership of Walter E. and Wilbur N. Mendenhall as requested in Application No. 35908 considered concurrently herewith.

considered in Application No. 35908 between Eureka and Ruth when the proposed transfers are authorized by the Commission and executed by the parties.

The consideration to be paid by the buyers for the transfer of said operative rights and equipment is the sum of \$14,000, without interest, as follows: The sum of \$300 at the time of the transfer of said operative rights and equipment and the sum of \$300 on or before the first day of each month thereafter until the total sum of \$14,000 has been paid.

The application states that the seller (Humboldt Motor Stages, Inc.) desires to withdraw entirely from the field of passenger stage operations which could be accomplished if the authority sought herein is granted. It would have remaining its petroleum irregular route operations only, to which it could devote its entire attention.

Acquisition by the buyers of the rights as proposed would complement their operation between Fortuna and Ruth in such manner that the entire operations when combined could be conducted more efficiently and more economically. They would continue the present rates, rules, regulations and service now in effect. In our opinion the transaction will not be adverse to the public interest.

The balance sheet of the buyers as of March 31, 1954, attached to the application as Exhibit F, shows a surplus of \$53,704.21. Their income and profit and loss statement for the period January 1, 1953 to March 31, 1954, shows a net operating profit of \$28,382.71 before allowances for income taxes.

The transfer proposals considered herein and in Application No. 35908, directly or indirectly involve approximately six decisions. In our opinion it would be in the public interest and

helpful as to clarity and certainty of meaning of those rights to have them entirely restated in one decision. In consonance therewith and after full consideration the authority herein requested will be granted and a new certificate will be issued to Walter E. and Wilbur N. Mendenhall in the place and stead of all the operative rights they may acquire as applied for in this application and in Application No. 35908.

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

Wilbur N. and Walter E. Mendenhall, partners, doing business as Mendenhall Transportation Co., 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 as to the number of rights which may be given.

O R D E R

The Commission having considered the above-entitled matter and being of the opinion that a public hearing is not necessary, that the application should be granted as herein provided, that the contract of sale is an evidence of indebtedness as defined in the Public Utilities Code, that the money, property or labor to be procured or paid for by the execution of such evidence of indebtedness is

reasonably required by applicants Mendenhall for the purpose as specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. Humboldt Motor Stages, Inc., may transfer to Walter E. Mendenhall and Wilbur N. Mendenhall, partners, and the latter may acquire from the former the operative rights created by Decisions Nos. 48736 and 31835, in accordance with the terms of that certain contract marked Exhibit B and attached to the application herein, which contract the parties hereby are authorized to execute.
2. That in the place and stead of the operative rights which Walter E. and Wilbur N. Mendenhall may acquire hereunder and also acquire under the provisions of Decision No. - 30905 in Application No. 35908 new certificates are granted hereinafter.
- 3a. A certificate of public convenience and necessity is hereby granted to Walter E. and Wilbur N. Mendenhall, partners, authorizing the establishment and operation of service as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, for the transportation of passengers, baggage and packages of express weighing 100 pounds or less on passenger carrying vehicles only, between Scotia, Fortuna, Ruth, Eureka, Bayside, Sunny Brae, Arcata, Korbelt, Crannel, Trinidad and intermediate points, serving Redwood Acres Fair Grounds by diversion from Eureka upon demand of six or more passengers.
- aa. The service authorized in paragraph 3a hereof shall be conducted over and along the following route:
 

Over U. S. Highway 101 between Scotia and Trinidad via Eureka and Arcata. From Bayside Junction over Bayside Junction Road and the old Eureka - Arcata Road via Bayside and Sunny Brae. Over county road between U. S. Highway 101 and Crannell. Over U. S. Highway 299 and an unnamed county road from the junction of U. S. Highway 101 and 299 to Korbelt via Blue Lake.
- b. A certificate of public convenience and necessity is hereby granted to Walter E. and Wilbur N. Mendenhall authorizing the establishment and operation of a sightseeing service as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, for the continuous round-trip transportation of passengers whose points of origin and destination are Eureka.

bb. The sightseeing service authorized in paragraph 3b shall be conducted over and along the following routes:

Tour 1. Beginning at Eureka, thence southerly over U. S. Highway 101 to Bull Creek Flat, via Scotia and Dyerville, returning to Eureka over the same route;

Tour 2. Beginning at Eureka, thence northerly over U. S. Highway 101 to Prairie Creek Park, via Arcata, Trinidad and Orick, returning to Eureka over the same route;

Tour 3. Beginning at Eureka, thence northerly over U. S. Highway 101 and county highways to Coast Guard Station, via Arcata and Samoa, returning to Eureka over the same route;

Tour 4. Visiting various points of interest in and about the city of Eureka; provided that any trip on Tour No. 1 or Tour No. 2 may be canceled, unless two or more passengers present themselves for transportation. Tour No. 3 or Tour No. 4 may be canceled, unless four or more passengers present themselves for transportation.

c. A certificate of public convenience and necessity is hereby granted to Walter E. and Wilbur N. Mendenhall authorizing the establishment and operation of service as a highway common carrier, as defined in Section 213 of the Public Utilities Code for the transportation of general commodities between Eureka, on the one hand, and, on the other hand, Ruth and points intermediate to Ruth and Fortuna, excluding Fortuna, and between Fortuna and Ruth and intermediate points via Rohnerville.

cc. The service authorized in paragraph 3c shall be conducted over and along U. S. Highway 101 between Eureka and Fortuna, then over California State Route 36 and an unnamed county road to Ruth.

4. Within thirty days after the consummation of the transfer herein authorized the purchasers shall notify the Commission in writing of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instruments of transfer which may have been executed to effect such transfer.

5. On not less than five days' notice to the Commission and to the public, applicants shall supplement or re-issue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that Humboldt Motor Stages, Inc., has withdrawn or canceled and that Walter E. Mendenhall and Wilbur N. Mendenhall,

partners, have adopted or established as their own, said rates, rules and regulations. The tariff filings made pursuant hereto shall comply in all respects with the Commission's General Orders Nos. 79 and 80.

IT IS FURTHER ORDERED that in providing service pursuant to the authorities herein granted Walter E. and Wilbur H. Mendenhall shall comply with and observe the following service regulations:

- a. Within thirty days after the effective date hereof said Mendenhalls shall file a written acceptance of the certificates granted herein.
- b. Within sixty days after the effective date hereof, and upon not less than five days' notice to the Commission and to the public, said Mendenhalls shall establish the services herein authorized and file in triplicate, and concurrently make effective, appropriate tariffs and timetables satisfactory to the Commission.

IT IS FURTHER ORDERED that the certificates granted in paragraph 3 of this order shall become effective upon the execution of the agreement of transfer of the operative rights and properties as authorized in paragraph 1 of this order. Concurrently therewith, the operative rights created by the following decisions shall stand revoked and annulled:

<u>Decision Numbers</u>	<u>Application Numbers</u>
39789	27990
32119	22805
48736	34256
31835	22512

The authorizations herein granted will expire April 30, 1955, if not previously exercised.

This order will become effective when applicants Mendenhall shall have paid the minimum fee prescribed by Section 1904 of the Public Utilities Code which fee is \$25.

Dated at San Francisco, California, this 10th day of January, 1955.

[Signature]  
President:

[Signature]

[Signature]

[Signature]

Commissioners.

