

ORIGINALDecision No. 50366

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 WALTER EARL MENDENHALL, and WILBUR)
 N. MENDENHALL and WALTER E. MENDEN-)
 HALL, partners doing business as) Application No. 35908
 MENDENHALL TRANSPORTATION CO., for)
 authority for the former to transfer,)
 and the latter to acquire, certain)
 operative rights.)

O P I N I O N

Walter E. Mendenhall, an individual, and the partnership of Wilbur N. and said Walter E. Mendenhall request the Commission to authorize the former to sell and the latter to acquire an operative right for the transportation of passengers and property between Eureka and Ruth and intermediate points via Fortuna and Rohnerville. No local service is authorized between Eureka and Fortuna. The seller acquired the operative right by Decision No. 39789 dated December 23, 1946, in Application No. 27990.

No consideration is to be paid for the transfer of the operative right. No equipment is proposed to be transferred by the seller as all of the automotive equipment presently used by him in conducting operations under the above-described operative right is presently owned by Wilbur N. and Walter E. Mendenhall as partners.^{1/}

The rates, rules and regulations to be assessed and applied by the buyers will be the same as those now in effect. The

^{1/} Pending before the Commission and having concurrent consideration is Application No. 35909 in which the buyers herein are requesting authority to acquire from Humboldt Motor Stages, Inc., passenger stage operative rights between Trinidad, Korbek and Scotia and intermediate points via Eureka and Fortuna. Also certain sightseeing operative rights would be acquired.

same is true with respect to the service. The buyers will continue the service now provided by the seller as an underlying carrier for the express corporation Intercity Transport Lines.

As justification for the authority sought the application states that applicants as partners presently conduct a local delivery service in Eureka under city carrier permit No. 12-1815, a limousine service between Eureka and the Eureka Airport, and a passenger car rental service in Eureka. They desire to have all operations now rendered by either of them conducted by them as partners in the future. This will simplify and improve the efficiency of their operations, accounting, taxes and insurance. It will make the financial resources, personnel and other facilities of each applicant available to the partnership.

The balance sheet of the buyers as of March 31, 1954, shows their cash on hand and other current assets in the total amount of \$23,694 and their reported investment in properties at \$34,900.38, a total of \$58,594.38. It shows outstanding liabilities of \$4,890.17 and proprietary capital 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.

After full consideration of applicants' proposal it is our opinion that the transaction will not be adverse to the public interest. The action taken herein shall not be construed to be a finding of the value of the rights herein authorized to be transferred.

Walter Earl Mendenhall and Wilbur N. Mendenhall, 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 and that the application should be granted as herein provided,

IT IS HEREBY ORDERED as follows:

1. Walter E. Mendenhall, an individual, may transfer to Walter E. Mendenhall and Wilbur N. Mendenhall, partners, and the latter may acquire from the former the operative rights created by Decision No. 39789 in Application No. 27990.
2. 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.
3. 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 Walter E. Mendenhall, an individual, 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.

4. The authorization herein granted will become effective twenty days after the date hereof. If not exercised by applicants, such authorization will expire on April 30, 1955.

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

[Signature]
President.

[Signature]
[Signature]

[Signature]
Commissioners.