

ORIGINALDecision No. 51414

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ELTON H. MATTOON, doing business as)
 HUMBOLDT TRANSPORTATION CO., and)
 WALTER E. MENDENHALL and WILBUR N.)
 MENDENHALL, partners doing business)
 as MENDENHALL TRANSPORTATION CO.,)
 for authority (1) for the former to)
 transfer, and the latter to acquire,)
 certain operative rights, and (2))
 for certificates of public conven-)
 ience and necessity to be issued to)
 both applicants.)

Application No. 36795

In the Matter of the Application of)
 WALTER E. MENDENHALL and WILBUR N.)
 MENDENHALL, partners doing business)
 as MENDENHALL TRANSPORTATION CO.,)
 for a certificate of public conven-)
 ience and necessity to operate as a)
 highway common carrier between)
 Bridgeville, Fort Seward, Alderpoint)
 and Zenia and intermediate points.)

Application No. 36796

O P I N I O N

Elton H. Mattoon, doing business as Humboldt Transportation Co., hereinafter called "Mattoon", is the owner of operating rights authorizing operations as a passenger stage corporation and as a highway common carrier granted to him by the Commission in Decision No. 48736 in Application No. 34256. The passenger stage right includes, generally, service between the junction of U. S. Highways 101 and 299 and Forks of Salmon and intermediate points via Willow Creek, Orleans and Somes Bar, and between said points, on the one hand, and, on the other hand, points on U. S. Highway 101 from Eureka to the junction of U. S. Highways 101 and 299. The highway common carrier right covers the transportation of property between the points described above between the junction of U. S. Highways 101 and 299 and Forks of Salmon and between said points, on the one

hand, and, on the other hand, points on U. S. Highway 101 from Scotia to Trinidad, inclusive, and the off-highway points of Crannell and Redwood Acres Fair Ground.

Walter E. Mendenhall and Wilbur N. Mendenhall, doing business as Mendenhall Transportation Co., hereinafter called "Mendenhall", are the owners of passenger stage operative rights and highway common carrier rights granted by the Commission in its Decision No. 50959 in Application No. 35909. The passenger stage rights authorize service between Scotia, Fortuna, Ruth, Eureka, Bayside, Sunny Brae, Arcata, Korbelt, Crannell, Trinidad and intermediate points, and for the round-trip transportation of passengers from Eureka over four specified routes. The highway common carrier right authorizes transportation of general commodities between Eureka, on the one hand, and Ruth and points intermediate between Fortuna and Ruth, on the other hand.

In Application No. 36795 the Commission is requested to authorize Mattoon to transfer and Mendenhall to acquire that portion of Mattoon's passenger stage right and highway common carrier right authorizing the transportation of property and express between the junction of U. S. Highways 101 and 299 and Blue Lake and Korbelt and intermediate points. Korbelt is not a point on U. S. Highway 299. It is situated approximately one mile from that highway and is less than three miles from Blue Lake which is on the highway. Mendenhall is presently authorized to serve Korbelt as a passenger stage corporation but in order to make certain, if the transfer is approved, that it is authorized to serve Korbelt as a highway common carrier, Mendenhall by this application requests that a certificate be granted specifically authorizing service as a highway common carrier to and from Korbelt. Mendenhall proposes to perform the same highway common carrier service that Mattoon is presently authorized

to perform to and from points between the junction of U. S. Highways 101 and 299 and Blue Lake and Korbek. Mendenhall therefore requests a certificate authorizing the transportation of property as a highway common carrier between points intermediate between the junction of U. S. Highways 101 and 299 and Blue Lake and Korbek, including the latter, on the one hand, and, on the other hand, points on U. S. Highway 101 from Scotia to Trinidad, inclusive, and serving Redwood Acres Fair Ground and Crannell by diversion from the main highway.

Mattoon and Mendenhall both request that new certificates be granted which will clearly define their respective operative rights.

The application states that no consideration is to be paid by Mendenhall to Mattoon for the transfer of the operative rights. The transfer would result in some duplication of Mendenhall's rights as a passenger stage corporation to transport express. The applicant suggests that any such duplication be removed by issuance of a new certificate.

As justification for the transfer and for the granting of the certificates applicants state that the handling by Mattoon of freight and express to and from points between the junction of U. S. Highways 101 and 299 and Blue Lake and Korbek, including the latter points, delays the buses and trucks to such an extent that the schedules of the vehicles to the more distant points are delayed and operating difficulties arise due to the number of hours of work involved for the drivers. On the other hand, applicants state, the handling of such traffic by Mendenhall would fit in with that applicant's other operations in such a way that it could be handled efficiently and more effectively. Mendenhall is presently operating two buses per day to Blue Lake and Korbek and such buses have room to handle considerable freight and express.

Mattoon is operating only one bus per day to these points and because the bus also carries express and freight to beyond points, he does not have as much space available for freight and express to Blue Lake and Korbel as does Mendenhall.

In Application No. 35796 Mendenhall seeks a certificate to operate as a highway common carrier for the transportation of property between Bridgeville and Fort Seward, Alderpoint and Zenia and intermediate points via unnumbered county highways. Applicant requests that such operative right be consolidated with existing rights or whatever rights may be authorized by the Commission in Application No. 36795.

As justification for this authority, applicant points out that there is no highway common carrier service at present to or from any of the points for which authority is requested. The only points which are served by rail are Fort Seward and Alderpoint. Applicant states that numerous requests to provide such service have been received not only from inhabitants, stores and lumber mills in the area, but also from various wholesale houses which have difficulty in distributing their products in this area.

The applications show that Mendenhall is willing and able to perform the service for which authority is sought in both applications. No protests have been received by the Commission. The authority sought in Application No. 35795 would not place a new service in existence but would merely authorize Mendenhall to conduct a service that Mattoon desires to discontinue. Application No. 35796 covers an area which is presently lacking in any highway common carrier service.

Upon consideration, the Commission is of the opinion that the authority sought in both applications should be granted and a public hearing is not necessary.

We are of the opinion and hereby find that the transfer of passenger stage operative rights and highway common carrier operative rights from Mattoon to Mendenhall as proposed in Application No. 36795 is not adverse to the public interest and the transfer should be authorized. We are of the further opinion and hereby find that public convenience and necessity require the granting of new certificates to each of the applicants as sought in Applications Nos. 36795 and 36796 which would supersede all of the operating rights presently held by each of the applicants.

Applicants 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 matters and being of the opinion that a public hearing is not necessary and that the applications should be granted as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. Elton H. Mattoon may transfer to Walter E. Mendenhall and Wilbur N. Mendenhall, partners, and the latter may acquire from the former, passenger stage operative rights and highway common carrier rights authorizing the transportation of express and property between the junction of U. S. Highways 101 and 299 and Blue Lake and intermediate points on U. S. Highway 299.

2. A certificate of public convenience and necessity is hereby granted to Elton H. Mattoon authorizing the establishment and operation of service:

- a. 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 each or less on passenger-carrying vehicles only, between the junction of U. S. Highways 101 and 299 and Forks of Salmon and intermediate points via Willow Creek, Orleans and Somes Bar, and between said points, on the one hand, and, on the other hand, points on U. S. Highway 101 from Eureka to the junction of U. S. Highways 101 and 299 subject to the following restrictions:

No passengers, baggage or express shall be transported to or from any point on U. S. Highway 299 from the junction of said Highway with U. S. Highway 101 to and including Willow Creek, except on passenger vehicles originating at or destined to Weitchpec or points beyond.

No express shall be transported to or from any point on U. S. Highway 299 from the junction of said Highway with U. S. Highway 101 to and including Blue Lake, or to or from Korbelt or points intermediate between Blue Lake and Korbelt.

- aa. The service authorized in subparagraph (a) hereof shall be conducted over the following route:

Beginning at Eureka thence over U. S. Highway 101 to U. S. Highway 299, thence over U. S. Highway 299, State Route 96 and a county road via Willow Creek, Orleans, Somes Bar to Forks of Salmon.

- b. As a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of property between Blue Lake and Forks of Salmon and intermediate points, but excluding Blue Lake, via Willow Creek and Orleans, and between said points, on the one hand, and, on the other hand, points on U. S. Highway 101 from Scotia to Trinidad inclusive and serving Redwood Acres Fair Ground and Crannell by diversion from the main highway.

- bb. The service authorized in subparagraph (b) hereof shall be conducted over and along the following route:

Over U. S. Highway 101 between Scotia and Trinidad and serving Redwood Acres Fair Ground and Crannell over county road. From U. S. Highway 101 over U. S. Highway 299, State Route 96 and a county road via Willow Creek, Orleans and Somes Bar to Forks of Salmon.

3. A certificate of public convenience and necessity is hereby granted to Walter E. Mendenhall and Wilbur N. Mendenhall authorizing the establishment and operation of service:

a. 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, Crannell, 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 subparagraph (a) 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. From Fortuna over an unnamed county road to Hydesville via Rohnerville, and then over California State Route 36 and an unnamed county road to Ruth.

b. 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 subparagraph (b) hereof 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. As a highway common carrier, as defined in Section 213 of the Public Utilities Code for the transportation of general commodities between Fortuna, Ruth, Fort Seward, Alderpoint, Zenia and intermediate points via Rohnerville and Bridgeville; and between said points, excluding Fortuna, on the one hand, and, on the other hand, Eureka.

cc. The service authorized in subparagraph (c) hereof shall be conducted over and along the following routes:

U. S. Highway 101 between Eureka and Fortuna, thence over an unnamed county road to Hydesville via Rohnerville and then over California State Route 36 to the junction of an unnamed county road near Bridgeville and thence via said county road to Blocksburg, then via unnamed county roads to Ford Seward, Alderpoint and Zenia. From the junction of California State Route 36 and an unnamed county road near Bridgeville via California State Route 36 to its junction with an unnamed county road near Mad River, then via said county road to Ruth.

d. As a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of property between the junction of U. S. Highways 101 and 299 and Blue Lake and Korbek and intermediate points, and between said points, on the one hand, and, on the other hand, points on U. S. Highway 101 from Scotia to Trinidad inclusive and serving Redwood Acres Fair Ground and Crannell by diversion from the main highway.

dd. The service authorized in subparagraph (d) hereof shall be conducted over and along the following route:

Over U. S. Highway 101 between Scotia and Trinidad and serving Redwood Acres Fair Ground and Crannell over county road. Over U. S. Highway 299 and county road from junction of U. S. Highway 101 to Blue Lake and Korbell.

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

5. Within sixty days after the effective date hereof and on not less than five days' notice to the Commission and to the public, applicants shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved. The tariff filings made pursuant hereto shall comply in all respects with the Commission's General Orders Nos. 79 and 80.

6. Upon the consummation of the transfer as herein authorized and in providing service pursuant to the certificates herein granted, applicants shall file written acceptances of the certificates herein granted on or before July 31, 1955.

7. The certificates granted in paragraphs 2 and 3 of this order shall become effective upon the execution of the transfer of operative rights 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>
48736	34256
50959	35909

The authorization herein granted will expire July 31, 1955, if not previously exercised.

This order shall become effective twenty days after the date hereof.

Dated at San Francisco, California, this 3rd day of May, 1955.

John E. Mitchell
 President
Justino J. Calera
Raulo Intero
Michael J. Kelly
 Commissioners