

Decision No. 52578

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
ELTON E. 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 equip-)
ment, and (2) for the latter to)
execute a conditional sales agree-)
ment covering certain equipment.)

Application
No. 37661

O P I N I O N

This is an application for an order authorizing Elton E. Mattoon, doing business as Humboldt Transportation Co., to transfer operative rights and properties to Walter E. Mendenhall and Wilbur N. Mendenhall, partners doing business as Mendenhall Transportation Co., and authorizing said partners to execute a conditional sales agreement.

Applicants are engaged in business as highway common carriers and as passenger stage corporations pursuant to authorization granted them by Decision No. 51414, dated May 3, 1955, in Applications No. 36795 and No. 36796. In general, applicant Mattoon operates between Forks of Salmon and Somes Bar to Arcata, Eureka and Scotia, and other points, and the applicants Mendenhall from Trinidad and other points to Eureka, Fortuna, Bridgeville, Alderpoint, and other points. According to Exhibit A filed with the application the routes of the applicants parallel each other to some extent.

It appears that applicant Mattoon desires to discontinue his operations and that he has made arrangements to dispose of his operative rights and his equipment to the applicants Mendenhall, who desire to acquire them and to integrate them with their present operations. It is asserted that the consolidation of the two separate operations will afford greater flexibility in the service presently being conducted by applicant Mattoon by reason of additional equipment and personnel which will be available, and that economies will be effected through the elimination of one terminal in Eureka and savings in general administrative expenses.

Under the terms of the agreement by the parties the applicants Mendenhall, in payment for the rights and equipment, will assume and agree to pay outstanding indebtedness of \$6,000 against the equipment and will convey and transfer to applicant Mattoon certain real property and improvements located at 220 First Street, Eureka, California, which property in the past has been used by the applicants Mendenhall for garage and shop facilities but no longer will be required in the operations. The present value of such real property and improvements is asserted to be \$12,000.

Upon completion of the transaction, the applicants Mendenhall propose to refinance the \$6,000 indebtedness through the execution of a new conditional sales agreement which will be payable in installments of \$200 a month without interest.

The application shows that the applicants Mendenhall will adopt the rates, fares, rules, regulations, and time schedules of applicant Mattoon and will assume the obligations under a contract

which applicant Mattoon now has with Intercity Transport Lines for the through movement of passengers and freight. It clearly appears from the application that there will be no change in the rates and service and it is our opinion, and we so find, that the proposed transfer will not be adverse to the public interest.

Applicants are hereby placed on 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.

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. The applicants Mendenhall, upon acquiring the properties of applicant Mattoon, shall transfer to their books of account the ledger balances in the property and reserve accounts of applicant Mattoon at the date of transfer.

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 money, property or labor to be procured or paid for by the execution of the conditional sales agreement herein authorized is reasonably required for the purpose 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. Elton H. Mattoon, doing business as Humboldt Transportation Co., may transfer to Walter E. Mendenhall and Wilbur N. Mendenhall, partners doing business as Mendenhall Transportation Co., his operative rights and equipment, such transfer to be made under the terms and conditions set forth in this application. Said Walter E. Mendenhall and Wilbur N. Mendenhall may acquire such operative rights and consolidate them with their existing rights.

2. Walter E. Mendenhall and Wilbur N. Mendenhall may assume the payment of outstanding indebtedness of \$6,000 in acquiring said rights and properties of Elton H. Mattoon and thereafter may execute a conditional sales contract providing for payment of \$6,000 for the purpose of refinancing the indebtedness they are authorized to assume.

3. 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 operations here involved to show that Elton H. Mattoon has withdrawn or canceled and that Walter E. Mendenhall and Wilbur N. Mendenhall have adopted or established, as their own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Orders Nos. 79 and 80.

4. Walter E. Mendenhall and Wilbur N. Mendenhall shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order, and a report showing the journal entries used to record on their books the acquisition of the rights and properties herein authorized to be transferred, such report to be filed within 30 days after the date of such entries.

5. The authority herein granted will become effective when Walter E. Mendenhall and Wilbur N. Mendenhall have paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.00.

Dated at San Francisco, California, this 7th day of February, 1956.

Walter E. Mendenhall
President

Justus J. Culler
Ray C. Gutierrez
Matthew J. Shady

Commissioners

