

Decision No. 60175**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
WALTER E. MENDENHALL and WILBUR N.
MENDENHALL, partners doing business
as MENDENHALL TRANSPORTATION CO.,
for an extension of their certificate
of public convenience and necessity to
operate as a highway common carrier.

Application No. 41618

In the Matter of the Investigation
into the rates, rules and regulations,
charges, allowances and practices of
all common carriers, highway carriers
and city carriers relating to the
transportation of any and all com-
modities between and within all points
and places in the State of California
(including but not limited to, trans-
portation for which rates are provided
in Minimum Rate Tariff No. 2).

Case No. 5432
(Petition for Modification
No. 169)O P I N I O N

The above-entitled matters have been consolidated for decision because of the interrelated subject matter involved.

Applicants hold certificates of public convenience and necessity authorizing them to operate as a highway common carrier and passenger stage corporation in the Eureka area. Application No. 41618 seeks additional highway common carrier operating rights. Petition 169 in Case No. 5432 seeks authority, if Application No. 41618 be granted, to publish rates in their tariff for the new service area identical to the rates applicants have established throughout their existing system, which are less than those presently published by this Commission in Minimum Rate Tariff No. 2.

A public hearing is not necessary in this matter.

Applicants have 14 pieces of highway common carrier operating equipment. During 1958 their gross passenger and freight operating revenues were \$121,132. Their earned surplus was \$17,660 at the end of that year.

The Commission finds that applicants have the ability, including financial ability, to conduct the proposed highway common carrier operations.

Applicants presently have the authority to transport property as a highway common carrier between the following points ^{1/} :

1. 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 Cranell.
2. Between Fortuna, Ruth, Fort Seward, Alderpoint, Zenia and intermediate points via Rohmerville and Bridgeville; and between said points, excluding Fortuna, on the one hand, and, on the other hand, Eureka.
3. Between the junction of U. S. Highways 101 and 299 and Blue Lake and Korbel 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 Cranell.

Applicants seek authority in Application No. 41618 to transport property between the following points:

1. All points on U. S. Highway 101 from and including Trinidad, on the one hand, and, on the other hand, Scotia.
2. All points on routes which applicants are presently authorized to serve east of U. S. Highway 101, on the one hand, and, on the other hand, all points on U. S. Highway 299 between and including Willow Creek and Burnt Ranch.

^{1/} The routes applicants are required to use are not listed.

3. All points which applicants are presently authorized to serve east of U. S. Highway 101.
4. All points within 5 miles of each highway over which applicants are authorized to provide service.

The verified application avers that they have had many requests to serve points located on U. S. Highway 101 between and including Trinidad and Scotia and to serve between said points and all other points on their system. The application also states that there have been numerous requests to serve the area from Willow Creek to Burnt Ranch from points on their system, especially Eurcka, and that no railroad or highway common carrier serves between these points.

Application No. 41618 also discloses that the area for which additional operating authority is herein sought has been growing; that new communities, mills and industries have been located near but not on the highways in the area; that many wholesalers have difficulty supplying the area; and that there is a public demand for the additional service proposed by applicants. Except for the extension of territorial operating area sought between Willow Creek and Burnt Ranch, the additional operating authority herein requested involves points or routes which applicants traverse but may not serve, or points at which applicants have limited rights.

The Commission finds that public convenience and necessity require the granting of the application.

During the consideration of this matter by the Commission it became apparent that applicants' operating rights are contained in numerous decisions over the years. These rights are, in their present form, confusing to the public; and the cumbersome form in

which they now exist hampers this Commission in the performance of its regulatory functions. Applicants will be required to file an application to consolidate all of their operating rights in an in-lieu certificate of public convenience and necessity.

Applicant is 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, such rights extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

Petition No. 169 in Case No. 5432, requests authority to publish rates, lower than those published in Minimum Rate Tariff No. 2, on commodities other than fresh fruits and vegetables for distances not exceeding 150 constructive miles in the area encompassed by the additional rights herein granted. The proposed rates are as follows:

<u>Weight of Shipment in Pounds</u>		<u>Applicants' Minimum Charge</u>	<u>Charge Prescribed Minimum Rate Tariff No. 2</u>
<u>Over</u>	<u>But Not Over</u>		
0	25	100	165
25	50	125	175
50	75	150	190
75	100	175	220
100	150	200	275
150	200	250	325
200	250	300	380
250	-	350	440

The Commission, in Decision No. 57961, previously authorized applicants to publish said rates in Rule No. 185 of Mendenhall Transportation Co., Local Freight Tariff No. 3, Cal. P.U.C. No. 5. These

rates are now in effect throughout the area applicants are presently authorized to serve.

Petition No. 169 avers that applicants previously maintained different levels of minimum charges on different portions of their system, which resulted in confusion, criticism and complaints from the public, and that unless the requested authority is granted the same situation would prevail. The petition also states that unless applicants are authorized to publish the same minimum rates which apply throughout their system to the area which they are herein authorized to serve, they will be in violation of the long- and short-haul provisions of Article XII, Section 21 of the California Constitution and Section 460 of the Public Utilities Code, which would compel them to raise some of the rates which were authorized in Decision No. 57961.

The Commission finds that applicants should be authorized to apply their presently authorized minimum rates to the additional area which they are authorized to serve herein.

O R D E R

A verified petition and application having been filed and based upon the evidence contained therein,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is hereby granted to Walter E. Mendenhall and Wilbur N. Mendenhall, authorizing the transportation of property as a highway common carrier as defined by Section 213 of the Public Utilities Code between the points and over the routes as set forth in Appendix A attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations:

- (a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicants are placed on notice that they will be required, among other things, to file annual reports of their operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99 and insurance requirements of the Commission's General Order No. 100-A. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Orders Nos. 99 and 100-A, may result in a cancellation of the operating authority granted by this decision.
- (b) Within sixty days after the effective date hereof, and on not less than ten days' notice to the Commission and to the public, applicants shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs satisfactory to the Commission.

3. Applicants are authorized to apply Rule No. 185 of Mendenhall Transportation Co., Local Freight Tariff No. 3, Cal. P.U.C. No. 5 to the territory for which highway common carrier operating rights are herein granted.

4. Applicants shall, within ninety days after the effective date of this order, file an application with this Commission seeking the consolidation of all of their operating rights in an in-lieu certificate of public convenience and necessity.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 24th day of May, 1960.

[Signature]
President
[Signature]
[Signature]
Theodore J. J. J. J.
Commissioners

Appendix A

WALTER E. MENDENHALL and
WILBUR N. MENDENHALL, dba
MENDENHALL TRANSPORTATION CO.

Original Page 1

Walter E. Mendenhall and Wilbur N. Mendenhall, by the certificate of public convenience and necessity granted in the decision noted in the margin are authorized to transport property over the following routes:

1. All points on U. S. Highway 101 from and including Trinidad, on the one hand, and, on the other hand, Scotia.
2. All points on routes which applicants are presently authorized to serve east of U. S. Highway 101, on the one hand, and, on the other hand, all points on U. S. Highway 299 between and including Willow Creek and Burnt Ranch.
3. All points which applicants are presently authorized to serve east of U. S. Highway 101.
4. All points within 5 air miles of each highway over which applicants are authorized to provide service.

Issued by California Public Utilities Commission.

Decision No. 60176, Application No. 41618.