

ORIGINAL

Decision No. 72038

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 authority to discontinue the)
 transportation of passengers and)
 baggage between certain points.)

Application No. 46755
 (Filed June 25, 1964)

Investigation into the operations,)
 rates, schedules, tariffs, service,)
 equipment and facilities of GREY-)
 HOUND LINES, INC., WESTERN GREYHOUND)
 LINES DIVISION, between Scotia and)
 Trinidad, California.)

Case No. 8011
 (Filed September 22, 1964)

Investigation into the operations,)
 rates, schedules, tariffs, service,)
 equipment and facilities of)
 WALTER E. and WILBUR N. MENDENHALL,)
 doing business as Mendenhall)
 Transportation.)

Case No. 8012
 (Filed September 22, 1964)

J. Richard Townsend, for Mendenhall Transportation
 Company, applicant and respondent, Case No. 8012.
William T. Meinhold, for Western Greyhound Lines,
 respondent in Case No. 8011.
 Armand Karp, for Callison Truck Lines; George E. Stoa,
 for Merchants Express of California; and John D.
 Cook, for Humboldt County, interested parties.
Edward P. Thurban and Lawrence Q. Garcia, for the
 Commission staff.

O P I N I O N

The applicants, hereinafter called Mendenhall, were
 authorized by Decision No. 61690, dated March 21, 1961, in Application
 No. 42647, to operate as a highway common carrier and a passenger
 stage corporation to transport passengers, baggage and packages of
 express weighing 100 pounds or less on passenger-carrying vehicles,
 only, between Scotia, Trinidad, Forks of Salmon, Ruth, Bayside, Sunny
 Brae, Arcata-Eureka Airport, Crannell, Korbel and intermediate points,

serving Redwood Acres Fair Grounds by diversion from Eureka upon demand of six or more passengers. The highway common carrier authority granted by the decision includes all points served by the passenger service, and certain additional points. Decision No. 61690 also authorized Mendenhall to transport passengers whose points of origin and destination are Eureka on continuous round-trip sight-seeing service to Bull Creek Flat, Prairie Creek Park, Coast Guard Station, and points of interest in and about the City of Eureka.

Mendenhall filed the present application for authority to discontinue the transportation of passengers and baggage between Scotia, Trinidad, Bayside, Sunny Brae, Crannell, Redwood Acres Fair Grounds, Korbelt and intermediate points; and to discontinue all sightseeing service, as authorized by Section 2 of Appendix B of Decision No. 61690 hereinabove mentioned. The transportation of express packages weighing 100 pounds or less was to be continued.

The Commission instituted formal investigations on September 22, 1964 of the passenger service provided by Western Greyhound Lines and Mendenhall in the area from Scotia, about 30 miles south of Eureka, to Trinidad, approximately 25 miles north of Eureka. All three of the proceedings were consolidated, and a hearing thereon was held in Eureka on October 6, 1964, before Examiner Rowe. Mendenhall presented evidence (Exhibits 6 and 7) which showed that the bus service resulted in a net loss of \$7,555.70 during the year 1963 and \$6,736.25 during the first six months of 1964, based solely on out-of-pocket expenses. The matter was submitted on the date of hearing and shortly thereafter Mendenhall filed a petition to set aside submission and for an interim order. The petition proposed a revised schedule wherein a five-day-week

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(no service on Saturdays, Sundays, and holidays) service between Scotia and Arcata would be provided by a single bus. This suggestion was in substantial agreement with the staff proposal and the reduced service was authorized by Decision No. 68138 issued on October 27, 1964.

Mendenhall discontinued the service without authority in June of 1966. The Commission was advised that the single bus used in the service had been destroyed by fire and that the service had not generated sufficient revenue to justify investing in a new bus. Seven people wrote to the Commission and protested the sudden cessation of service. The protests were due to the fact that the discontinued route had provided transportation for a group of students attending local schools, and afforded housewives an opportunity to travel to Eureka for medical appointments and shopping. The staff advised Mendenhall that the discontinuance was without authority and since the matters were still pending a further hearing was scheduled in Eureka to develop the facts.

Public hearing was held on September 20, 1966 in Eureka, before Examiner Fraser. The matter was submitted after the staff and the applicant presented evidence.

The principal bus service in the area is provided by Western Greyhound Lines, whose schedules are designed for through passengers to Portland, Eureka and San Francisco. Those residents south of Eureka are provided with four Greyhound round trips daily, and can utilize schedules that arrive in Eureka at 5:05 a.m., 10:10 a.m., 5:00 p.m. or 8:45 p.m. and return at 8:00 a.m., 11:40 a.m., 3:00 p.m. or 9:50 p.m. The residents north of Eureka have only three daily schedules leaving Arcata southbound at 6:57 a.m., 2:21 p.m., and 9:01 p.m. If additional service were provided by Western

Greyhound Lines it would have to be done by extra local schedules, since the long distance routes could not be changed without serious inconvenience to the through passengers. Extra schedules would require additional vehicles which are not presently available and at least two additional drivers.

Eureka is the county seat and the largest city in the county. Residents of various parts of the county shop there, or go in for medical treatment, business or recreation. Bus service between Eureka and the outlying areas is therefore needed to enable those without cars or other means of transportation to get into town. The staff exhibit (No. 15, pages 4, 5) indicates that service from points south (Scotia, Rio Dell, Fortuna) into Eureka is adequate, due to the frequency of Greyhound service between Eureka and the Bay area. The exhibit suggests that the service from northern points (Arcata, Trinidad) to Eureka is inadequate and should be supplemented by additional service between Eureka and Arcata. Mendenhall operates a limousine service from Eureka to the county airport north of Arcata. The limousine meets all flights and picks up and deposits passengers at any point requested on the route. The staff exhibit recommends that in addition to the airport service, the limousine (11-passenger bus) to be used to provide at least one round trip from Eureka to Arcata sometime during the morning and that a second round trip be scheduled in the afternoon. It was further recommended that the Mendenhall application for authority to discontinue service be granted with the exception of Eureka to Arcata.

A staff engineer testified as follows: That bus operations in the Eureka area were severely curtailed by the floods of December, 1964; that Mendenhall also ceased operating for two weeks in September of 1965, after his driver suddenly resigned and his

replacement was not obtained for two weeks; each of these interruptions of service resulted in a decline of patronage; in April of 1966 Mendenhall carried an average of 73 passengers per day on five round-trip schedules, averaging less than 8 passengers per (one-way) trip; about 16 students used the Mendenhall service prior to the purchase of a school bus; these students now use the school bus; it is difficult to estimate the number of people who may use the Eureka to Arcata service; especially since the only bus available is the 11-passenger vehicle and priority on seats must be reserved for passengers being transported to-or from-the airport.

Walter E. Mendenhall testified that the service ordered by Decision No. 68138 was immediately provided and fares increased on March 16, 1965 under the authority granted in Decision No. 68662, dated February 25, 1965, in Application No. 47123; the reduced service and increased fares did not help since passenger patronage has been decreasing steadily as indicated by the following statistics:

1963	-	50,827	passengers
1964	-	44,136	"
1965	-	21,156	"
1966	-	7,755	" (to June 14)

Mendenhall placed Exhibits 16, 17, 18 and 19 in evidence. Exhibit 16 shows that Mendenhall derived a passenger revenue of \$11,648.83 and an express revenue of \$6,176.29 for a total revenue of \$17,825.12, during the 18 months from January 1, 1965 to June 30, 1966, from the service between Scotia and Arcata. Exhibit 17 lists total operating expenses of \$21,144.06 for the 18-month period, with a net loss of \$3,318.94, on the scheduled bus operation between Scotia and Arcata. Exhibit 18 is the Mendenhall balance sheet as of June 30, 1966 and Exhibit 19 and income statement, which shows a net income of \$33,550.88 for the 18-month period. Mendenhall

testified that the net income was the amount divided among the two partners. He stated that each partner received \$16,775.44 as his share of the profits on 18 months of operation. He then pointed out that a company of the size and type that he and his brother manage cannot afford even one unprofitable route; the passenger potential in the county is not high enough to justify it. Mendenhall further testified that it would be impossible to provide a regularly scheduled service between Eureka and Arcata with the vehicle used as an airport limousine; the vehicle leaves early to meet each flight, and waits for late arrivals; it waits a varying length of time for baggage to be unloaded and delivers incoming passengers to the specific address requested; when weather prohibits the use of the Crescent City airport, the Eureka limousine transports the Crescent City passengers from Eureka to their destination; airline customers using the limousine pay a substantial fare for an expedited service; experience indicates that those using the airlines and familiar with the limousine operation would complain and probably start using taxi service if the limousine were diverted at any time to provide a local bus service; two drivers are assigned to the airport service with two vehicles; each driver meets three flights, takes a mail or freight route, washes his vehicle, eats lunch and helps in the terminal on every shift worked; neither has time for an extra 16-mile round-trip between Eureka and Arcata; experience indicates that the service would have to be scheduled early in the morning and late in the evening to coincide with the need of the greatest number of potential customers; service provided at mid-morning, noon or mid-afternoon would not be worth scheduling, since it would be used by too few people to be practical.

Counsel for Western Greyhound Lines, Inc., requested a dismissal of Case No. 8011.

Discussion:

The Mendenhalls have requested authority to discontinue passenger service along Highway 101 except service to the Eureka-Arcata Airport. Passenger freight and express service in Humboldt County east of Highway 101 will be continued without change.

Service south of Eureka is adequate. Most customers north of Eureka reside in Arcata, according to the staff exhibits and testimony. Mendenhall's testimony indicates that the regular riders from Arcata come in to Eureka early and return at the end of the day. There are no mid-day customers except for a few shoppers. Greyhound Lines has a schedule leaving Arcata about 7:00 a.m. A shopper on this bus can return on the 10:30 a.m. schedule. It is also possible to leave Arcata at 2:21 p.m. and return on the 9:15 bus from Eureka. These schedules are inconvenient, but no one appeared at the second hearing to protest. Such lack of public interest indicates that the customers formerly carried by Mendenhall have found other means of transportation. There is no valid reason to require the Mendenhalls to provide additional service from Eureka to Arcata in their airport limousine.

After consideration the Commission finds that:

1. On June 25, 1964, the Mendenhalls filed an application to amend their operating authority to eliminate almost all of their passenger service along Highway 101 in Humboldt County.

2. On September 22, 1964, the Commission instituted an investigation of the passenger service provided between Scotia and Trinidad, California, by Western Greyhound Lines, Inc., and Mendenhall Transportation Co.

3. A hearing was held on October 6, 1964 and on October 27, 1964 the Commission issued Interim Decision No. 68138, which authorized a discontinuance of service between all points except Eureka and Scotia.

4. The Mendenhalls increased the fares charged on March 16, 1965 under the authority of Decision No. 68662, dated February 25, 1965, in Application No. 47123.

5. All service was discontinued in December of 1964 due to severe storms. Service along Highway 101 - except for service to the airport - was also discontinued for two weeks in September of 1965 when a bus driver quit and no replacement could be hired.

6. Regular service along Highway 101 was discontinued again on June 14, 1966 when the bus used on the local passenger route was destroyed by fire. The only service provided on Highway 101 since the fire has been to the airport.

7. The only passenger service along Highway 101 presently provided by Mendenhall is from the Arcata Airport to Eureka and Arcata. This service is designed to carry those who are arriving or departing in aircraft.

8. The vehicles used to provide the airport service frequently have to wait for late flights, or while baggage is unloaded, or for flights that have been rescheduled. It would always be difficult and frequently impossible to provide extra schedules between Eureka and Arcata with the airport limousines.

9. Passenger patronage on the routes the applicants seek to discontinue has steadily decreased since 1963.

10. Public interest in the regular service provided along Highway 101 since October of 1964 was practically eliminated when

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school bus service became available to transport most of the students formerly carried by the applicants.

11. Public convenience and necessity require that the service from Eureka and Arcata to the Eureka-Arcata Airport, which the applicants are providing, be continued, but it does not require that other service formerly provided along Highway 101 be re-established.

Decision No. 61690, dated March 21, 1961, in Application No. 42647, combined and restated all of the highway common carrier general commodity, passenger stage corporation and sightseeing service rights of the Mendenhalls; to eliminate confusion and the need to compare two decisions, the prior decision will be revoked and all of the operating authority remaining will be restated in this decision.

We conclude that Decision No. 61690 and Interim Decision No. 68138 should be revoked; that this application should be granted and that the investigation in Cases Nos. 8011 and 8012 should be discontinued.

Walter E. and Wilbur N. Mendenhall 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, 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.

O R D E R

IT IS ORDERED that:

1. Cases Nos. 8011 and 8012 are hereby discontinued.

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2. Interim Decision No. 68138, dated October 27, 1964, in the present proceeding is hereby revoked.

3. Walter E. Mendenhall and Wilbur N. Mendenhall, may discontinue operations as a passenger stage corporation and in sightseeing service except as provided in the following paragraphs.

4. Applicants shall amend their tariffs and timetables to eliminate the discontinued service and reflect the authority herein granted.

5. The certificates of public convenience and necessity granted in this order shall supersede all of the highway common carrier, sightseeing and passenger stage operating authority granted by Decision No. 61690, dated March 21, 1961, in Application No. 42647, which operating authorities shall be revoked effective concurrently with the effective date of the tariff filings required in the following paragraphs.

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

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

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance

requirements of the Commission's General Order No. 100-D. Failure to comply with and observe the safety rules or the provisions of General Order No. 100-D, may result in a cancellation of the operating authority granted by this decision.

- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs, in triplicate, in the Commission's office.
- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A.
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content and number of copies as the Commission, from time to time, shall prescribe.

8. A certificate of public convenience and necessity is hereby granted to Walter E. Mendenhall and Wilbur N. Mendenhall authorizing them to operate as a passenger stage corporation, as defined in Section 226 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix B attached hereto and made a part hereof.

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

- (a) Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol, the rules and other regulations of the Commission's General Order No. 98-A and insurance requirements of the Commission's General Order No. 101-B. Failure to comply with and observe the safety rules, or the provisions of General Orders Nos. 98-A or 101-B, may result in a cancellation of the operating authority granted by this decision.
- (b) Within one hundred twenty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs and timetables, in triplicate, in the Commission's office.
- (c) The tariff and timetable filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff and timetable filings shall be concurrent with the establishment of the service herein authorized.
- (d) The tariff and timetable filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs and timetables set forth in the Commission's General Orders Nos. 79 and 98-A.
- (e) Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this

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Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

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

Dated at San Francisco, California, this 21st day of FEBRUARY, 1967.

Robert E. G. [unclear]
President
William A. Bessard
Augusta [unclear]
William Lyman, Jr.
Paul P. Morrison
Commissioners

Walter E. Mendenhall and Wilbur N. Mendenhall, by the certificate of public convenience and necessity granted in the decision noted in the margin is authorized to transport general commodities between Scotia, Trinidad, Burnt Ranch, Forks of Salmon, Ruth, Fort Seward, Alderpoint, Zenia and intermediate points and all points within five air miles of each of the highways hereinafter described. This transportation service shall be conducted over and along the following routes:

- (1) U. S. Highway 101 from Scotia to Trinidad.
With regard to this operation, carrier is exempted from observing the rates, rules, and regulations named in Minimum Rate Tariff No. 2 for shipments of 100 pounds and less.

Carrier is also authorized to interchange shipments of 100 pounds or less with Greyhound Lines, Inc. (Western Greyhound Lines Division).

- (2) U. S. Highway 299 from junction of U. S. Highways 101 and 299 to Burnt Ranch.
- (3) California State Route 96 from Willow Creek to Somesbar and county road from Somesbar to Forks of Salmon.
- (4) County road from Fortuna to Hydesville via Rohnerville, thence California State Route 36 to junction with county road near Mad River, thence county road to Ruth.
- (5) County roads from junction of California State Route 36 and county road near Bridgeville to Fort Seward, Alderpoint and Zenia.
- (6) Connecting highways from each highway hereinabove described to all points within five air miles of such highway.

End of Appendix A

Issued by California Public Utilities Commission.

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AB

Appendix B

WALTER E. MENDENHALL
and
WILBUR N. MENDENHALL
doing business as
Mendenhall Transportation Company

Original Page 1

CERTIFICATE
OF
PUBLIC CONVENIENCE AND NECESSITY

Showing passenger stage operative rights, restrictions,
limitations, exceptions, and privileges applicable thereto.

All changes and amendments as authorized by the Public
Utilities Commission of the State of California will be
made as revised pages or added original pages.

Issued under authority of Decision No. **72038**
dated Feb. 21, 1967, of the Public Utilities
Commission of the State of California, on Application No. 46755.

WALTER E. MENDENHALL
and
WILBUR N. MENDENHALL
doing business as
Mendenhall Transportation Company

Section 1. GENERAL AUTHORIZATIONS, RESTRICTIONS, LIMITATIONS,
AND SPECIFICATIONS.

The Certificate hereinafter noted supersedes all operative authority heretofore granted to Walter E. Mendenhall and Wilbur N. Mendenhall or their predecessors.

Walter E. Mendenhall and Wilbur N. Mendenhall by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to transport passengers, baggage, and packages of express weighing 100 pounds or less on passenger-carrying vehicles only between Arcata, Fortuna, Forks of Salmon, Ruth, Bayside, Sunny Brae, Arcata-Eureka Airport, and certain territories intermediate and adjacent thereto, over and along the routes hereinafter described, subject, however, to the authority of this Commission to change or modify said routes at any time.

Issued by California Public Utilities Commission.

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Section 2. ROUTE DESCRIPTIONS

- (1) From Eureka via U. S. Highway 101 to its intersection with State Highway 299, thence via State Highway 299 to Willow Creek, thence via State Highway 96 to Somesbar, thence via unnumbered highway to Forks of Salmon.
- (2) From Eureka via U. S. Highway 101 to Fortuna, thence via unnumbered highway to Rohnerville and Hydesville, thence via State Highway 36 to junction with unnumbered highway near Mad River, thence via unnumbered highway to Ruth.
- (3) From junction of U. S. Highway 101 and unnumbered highway (Bayside Junction) via unnumbered highways (Bayside Junction Road and old Arcata-Eureka Road) to Bayside, Sunnybrae and junction with U. S. Highway 101 (Eureka Junction).
- (4) From junction of U. S. Highway 101 and State Highway 299 via U. S. Highway 101 to its junction with unnumbered highway (Arcata-Eureka Airport access highway), thence via unnumbered highway to Arcata-Eureka Airport.

Issued by California Public Utilities Commission.

Decision No. 72038, Application No. 46755.