

Decision No. 22874

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
 MT. LASSEN TRANSIT COMPANY, a cor-
 poration, for (1) a certificate of
 public convenience and necessity to
 operate passenger, baggage, and ex-
 press service between Westwood and
 Pittville and Susanville and Pitt-
 ville, and intermediate points, re-
 spectively; (2) to serve logging
 camps, etc.

ORIGINAL

Application No. 16552.

Harry A. Encell, for the applicant,
 Edward Stern for the Railway Express Agency, Inc.,
 protestant,
 William N. Kearney for the Linville and
 Allan Stages, protestants.

BY THE COMMISSION:

O P I N I O N

Mt. Lassen Transit Company, a corporation, has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an automobile stage line, as a common carrier of passengers, baggage and express between Westwood and Pittville and between Susanville and Pittville and intermediate points along the Pittville roads, and to serve logging camps and mills and railroad and highway camps in an area consisting of and lying in a 15 mile lateral zone on either side of said roads, provided however, that said applicant shall not render any service between the points of Susanville and Westwood nor over or along the routes of any of the territory served by the C. C. & N. stages

or Alturas-Bieber Stage Line and Redding-Bieber Stage Line; together with the authority to consolidate the proposed service with the operative rights owned by applicant for the transportation of passengers, baggage, freight and express- also together with the authority to abandon the operative rights granted to applicant by Decision No. 19743, in Application No. 14644, dated May 9, 1928, for the transportation of passengers, baggage and express between Susanville and Camps A, B, C, D and E of the Fruit Growers Supply Company. The proposed routes and territory sought to be served are shown by that certain map attached to said application and marked Exhibit "B."

A public hearing on this application was conducted before Examiner Satterwhite, the matter was submitted and is now ready for decision.

The proposed passenger fares to be charged in the new operation are based upon a basic rate of Eight (8) cents per mile, and when said camps are established applicant proposes to publish rates in supplements to its tariffs; which said rates will be based upon Eight (8) cents per mile and ending in the nearest Five (5) cents to the basic rate applied to the Eleven (11) miles for which passengers desire transportation.

The proposed rates to be charged in the consolidated service sought to be established will be a combination of the locals charged upon lines heretofore operated by applicant and the lines herein sought to be established.

The rules and regulations governing the proposed operations shall be in accordance with the rules and regulations of applicant now on file with the Railroad Commission.

The express rates sought to be charged in the proposed service are set forth in Exhibit "A" attached to said application.

The rates proposed for the consolidated express service sought to be established will be a combination of existing express rates and the rates proposed, as set forth in Exhibit "A" and the rules and regulations governing said express service are the same as the rules and regulations now on file with the Railroad Commission governing the existing service of applicant herein.

Applicant proposes to operate all necessary modern stages, trucks, and trailers of sufficient capacity as to adequately serve the needs of the public.

Railway Express Agency, Inc. and Linville & Allan, (Redding-Bieber Stage Line), appeared at the hearing, but did not protest said proposed service, by reason of the fact of a certain stipulation providing for certain limitations of the service proposed by applicant in said application, which limitations will be incorporated in the order herein.

The testimony shows that the Mt. Lassen Transit Company acquired by purchase from George A. Scott an operative right for the transportation of passengers, baggage and express between Susanville and Camps A, B, C, D and E of the Fruit Growers Supply Company under the terms and conditions set forth in the above named Decision No. 19743 and that for the purpose of more convenient operation, after logging in the adjacent territory to the aforesaid camps had been completed, the Fruit Growers Supply Company abandoned said Camps A, B, C, D and E and established

other camps in the adjacent territory known as Camps 8, 9 and 10. It appears, by the evidence, that Camps 8, 9 and 10 will in the very near future be abandoned when logging is completed in the territory. These new camps are established from time to time, for the purpose of economical operation, and the old camps are abandoned. The proposed service sought by applicant herein will permit applicant to carry on its business of serving established camps as well as camps to be hereafter established in the territory between Susanville and Pittville, on the one hand, and Westwood and Pittville, on the other hand, as well as in the territory adjacent which parallels said routes and comprises a territory 15 miles on either side of the routes between Susanville and Pittville and Westwood and Pittville. Applicant desires to consolidate all of its present operative rights and the proposed operative rights for the purpose of establishing a uniform service for the transportation of passengers, baggage, freight and express within the territory now being served by applicant through its various divisions, and the territory proposed to be served by this application. It was shown that this consolidation will result in a more efficient service over and along the routes and make possible the operation of a more flexible and adequate service throughout the territory now served by applicant. It is not proposed to transport freight between the points for which a certificate is herein sought.

The evidence shows the territory sought to be served lies in a heavily timbered area which is without any means of public transportation and in which territory are located extensive logging and lumber operations carried on by the Fruit Growers Supply Company and the Red River Lumber Company and that in said territory road construction camps of the State of California and the County of Lassen are

frequently established, as well as construction camps for logging and other railroads.

Applicant is now the owner and holder of the following operative rights granted by the Railroad Commission of the State of California for the transportation of passengers, baggage, freight and express, as shown by the following certificates:

Decision No. 19032, App. 13797, dated November 12, 1927;
No. 19177, App. 14077, " December 23, 1927;
No. 19743, App. 14644, " May 9, 1928;
No. 21262, App. 15566, " June 20, 1929.

After a careful consideration of the evidence in this proceeding, we are of the opinion and hereby find as a fact that public convenience and necessity require the proposed passenger, baggage and express service between Westwood and Pittville and intermediate points and Susanville and Pittville and intermediate points along the Pittville roads, and over the public roads within the proposed 15 mile zone, and the abandonment of the service of applicant between Susanville and said Camps A, B, C, D and E.

Mt. Lassen Transit Company is hereby placed upon notice that operative rights do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. 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 to the number of rights which may be given.

ORDER

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted and now being

ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation of an automobile stage line as a common carrier of passengers, baggage and express between Westwood and Pittville and intermediate points, and between Susanville and Pittville and intermediate points along the Pittville roads, and also to serve logging camps and mills, and railroad and highway camps in that territory lying in a 15 mile lateral zone on either side of said roads, provided however, that said applicant shall not render any service between the points of Susanville and Westwood, nor over or along the routes of any of the territory served by Sanford & Word and operations under the name of the O.C. & N. Stages, or the Alturas-Bieber Stage Line or the Redding-Bieber Stage Line (Allan & Linville).

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be and it is hereby granted to Mt. Lassen Transit Company, a corporation, and

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to Mt. Lassen Transit Company, a corporation, to consolidate the operative rights herein granted with the rights as granted and consolidated by Decision No. 19032 on Application 13797, the authority herein granted to be subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
2. Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period

of not to exceed sixty (60) days from the date hereof.

3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that Mt. Lassen Transit Company be, and it is hereby, authorized to abandon the service it was authorized to perform by Decision No. 19743 on Application No. 14644 between Susanville and Camps A, B, C, D and E of the Fruit Growers Supply Company, and the operative rights granted in said decision be and they are hereby annulled and revoked and Mt. Lassen Transit Company is hereby ordered to cancel all rates and schedules to said camps.

The effective date of this order shall be twenty (20) days from date hereof.

Dated at San Francisco, California, this 26th day of September, 1930.

W. C. C. C.
W. C. C. C.
Leon C. C. C.
John B. C. C.

Commissioners.