

Decision No. 24921.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
MT. LASSEN TRANSIT COMPANY, a cor-
poration, to sell, and MARTIN & PALEN,
a copartnership, to purchase operative
rights for the transportation of
persons and property between Oroville
and Keddie, and between Quincy and the
California-Nevada State Line, east of
Beckwith, and between Portola and
Walker Mine; for the issuance of a
new certificate in lieu of present
certificates, and for enlargements of
and changes in existing certificates
covering said routes.

ORIGINAL

Application No. 18082.

R. M. Hardy for Mt. Lassen Transit Company.

Earl A. Bagby for Feather River Stage Company.

BY THE COMMISSION:

O P I N I O N

Mt. Lassen Transit Company, a corporation, has made application for the approval of the transfer to Feather River Stage Company, a corporation (formerly Martin and Palen), of operative rights for the transportation of passengers, baggage, express and freight between Oroville and Keddie, Quincy and the Nevada State Line and lateral routes, for a consideration of \$3,500. The price is divided \$2,500. for operative rights and \$1,000. for a stage. By the agreement attached to the application as Exhibit "A" the purchasers are to pay \$1,500. in cash and execute a promissory note, secured by mortgage, for \$2,000. payable in instalments of \$50. each month. Originally D. J. Martin and E. N. Palen, copartners, made application to purchase the rights and equipment, but later incorporated under the name of Feather River Stage Company. At the hearing the corporation was substituted for the copartnership as

applicant.

Feather River Stage Company asks permission to issue the \$2,000. note and, in addition, 370 shares of its common capital stock of the aggregate par value of \$3,700.

A public hearing herein was conducted by Examiner Johnson at Westwood at which time the matter was submitted and now is ready for decision.

The rights of Mt. Lassen Transit Company sought to be transferred were created by Decision No. 19032 on Application No. 13797, which consolidated all previous rights with rights granted therein; Decision No. 19177 on Application No. 14077 authorizing acquisition of M.M. Olsen's rights and consolidating them with all other rights; Decision No. 22904 on Application No. 16552 granting Mt. Lassen Transit Company operative rights between Westwood and Pittville and Susanville and Pittville and consolidating these rights with the rights granted by Decision No. 19032 on Application No. 13797. Thus all rights owned by Mt. Lassen Transit Company are consolidated. Applicant now asks to sever this consolidation by transferring all that portion of its rights from Keddle, south and east, to Feather River Stage Company.

The purchaser asks that all these rights be consolidated and an in lieu certificate therefor be granted by the Commission, permitting the transportation of passengers and baggage and of property of any weight and on any type of vehicle between Oroville, Keddle, Sloats, Mohawk, Gracagle, Grizzly Ice Camp, Walker Mine, California-Nevada State Line near Purdy and all intermediate points.

Applicants presented E.J. Lane, owner of Buck's Lake Lodge, L.C. De Armond of Blairsden and C.R. Henkel, hotel-keeper at Quincy as witnesses in support of the need of the service proposed. T.S. Walker, president of Mt. Lassen Transit Company also testified as to the need of service between Oroville and Reno. He also testified that the rights to be transferred cost \$20,000. when

bought by his company, of which \$5,000. was for equipment; that the revenues of the lines involved which were \$16,125. in 1929 dropped to \$1,980. in 1931 and entailed large loss in their operation.

D.J. Martin, of Portola, president of Feather River Stage Company, testified that he has had 15 years experience in the stage business, a large part of which was in the employ of Mt. Lassen Transit Company over the routes involved; that E.N. Palen has similar experience and that they intend to operate and drive the stages themselves. They intend to use special equipment providing seats for six passengers and a capacity of one ton for property. Witness now holds the mail contract between Reno and Portola. Letters and telegrams from 21 persons at Quincy, Keddle, Portola and other places were filed (Exhibit No. 1) all asserting confidence in the ability of the operators to provide adequate service. No opposition to the application was presented.

Applicants request an unlimited right to transport express regardless of vehicle used. Feather River Stage Company also operates interstate service between Reno and Portola. Mr. Martin testified that the interstate and intrastate traffic will move on the same vehicles as far as Quincy or Keddle or to points south of Quincy. Under the unlimited property transportation right sought this would establish unlimited freight service between Keddle and the state line, and between Oroville and Keddle, a territory now served by a competing railroad (except south of Quincy) without the record showing any proof of inadequacy of such rail service. The property transportation right should be limited to the vehicles used in passenger service, under the usual express limitation of 100 pounds, except between Oroville and points south of Quincy where divergence of route to points not served by rail.

permits free movement by stage or truck.

Coming to a consideration of the request of Feather River Stage Company to issue a note and stock it appears to be the intention of the company to make the issue of the \$2,000. note in part payment of the operative rights to be acquired, and to sell the \$3,700. of stock at par for the following purposes:

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|---|---------------|---------------|
| To pay for the White stage to be obtained from Mt. Lassen Transit Company | | \$1,000.00 |
| To pay for additional equipment: One 6-passenger 1927 Studebaker sedan | \$ 250.00 | |
| One 1931 Ford, 1½ ton chassis with special body for 6 passengers | 1,408.80 | |
| Tools, parts, materials, supplies | <u>137.70</u> | 1,796.50 |
| Organization expenses, etc. | | <u>900.00</u> |
| Total | | \$3,696.50 |

The note will be secured by a mortgage or deed of trust covering certain real property in Nevada belonging to L.A. Hamel which will be an accommodation mortgage. No property of the Feather River Stage Company will be subject to the lien of the instrument.

It appears to us that the stock and note issues in the amounts requested for the purposes indicated are not unreasonable. This order accordingly will authorize the issues.

Feather River Stage 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.

O R D E R

Application having been made to the Railroad Commission for an order authorizing Mt. Lassen Transit Company to transfer rights and properties to Feather River Stage Company, and authorizing Feather River Stage Company to issue a \$2,000. note and \$3,700. of stock, and granting Feather River Stage Company a new certificate in lieu of present certificates and permitting certain enlargements of and changes in existing certificates, and a public hearing having been held and the Railroad Commission being of the opinion that the application should be granted as herein provided, and that the money, property or labor to be procured or paid for through the issue of the note and the stock is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expense or to income.

IT IS HEREBY ORDERED that applicant be and it is hereby granted, in lieu of all rights heretofore given, a certificate of public convenience and necessity to transport passengers, baggage and express (limited to shipments weighing not more than 100 pounds and transported on passenger vehicles, except between Oroville and Keddie on the one hand and points south of Quincy but not including Oroville on the other hand, property may be transported without regard to weight and vehicle used) between Oroville, Keddie, Sloats, Mohawk, Graeagle, Walker Mine, Grizzly Ice Camp, California-Nevada State Line near Purdy and all intermediate points over and along the following routes:

(a) Between Oroville and Keddie via Merrimac, Buck's Lodge and Quincy;

(b) Between Quincy and the California-Nevada State Line east of Peavine, California, via the state highway through Spring Garden, Sloat's Junction, Cromberg, Feather River Inn, Blairsden, Portola Junction, thence via the connecting highway to Portola.

thence via the same highway returning to Portola Junction, thence via the state highway to Beckwith, and thence via the main highway (now under state supervision) via Peavine to the California-Nevada State Line on the route to Reno, Nevada;

(c) Between Sloat's Junction and Sloat's via the main highway;

(d) Between Blairsden, Mohawk and Graeagle via the main highway to Feather River Inn to Mohawk and Graeagle, then continuing back to Blairsden via the old main Portola-Blairsden highway;

(e) Between Portola and Walker Mine via the main Portola-Reno highway to Ramelli's Ranch, thence via the main highway through Grizzly Ice Camp Junction and Feather River Camp to Walker Mine;

subject, however, to the following exceptions and conditions:

1. Between Oroville and Quincy and intermediate points and between Portola and Walker Mine service may be rendered seasonally approximately between the dates of May and November of each year, beginning and terminating as road and climatic conditions shall permit.

2. Between Portola and Grizzly Ice Camp service may be rendered on demand and seasonally approximately between the dates of May and November of each year, beginning and terminating as road and climatic conditions shall permit.

3. Between Sloat's Junction and Sloat's service may be rendered when demand is made for transportation to and from said point.

4. Service between Oroville and Quincy may be rendered on a tri-weekly basis until further order of the Commission.

5. Between Feather River Junction near Reno Junction curtailment of schedules may be made beyond when such curtailment is made necessary by climatic or road conditions.

IT IS HEREBY FURTHER ORDERED that the certificates of

public convenience and necessity heretofore granted by the Railroad Commission of the State of California by Decision No. 16555, dated April 23, 1926, on Application No. 12745; Decision No. 17215, dated August 13, 1926, on Application No. 13066; Decision No. 19032, dated November 12, 1927, on Application No. 13797; Decision No. 19177, dated December 23, 1927, on Application No. 14077, be and they are hereby annulled and set aside.

IT IS HEREBY FURTHER ORDERED that Feather River Stage Company be and it is hereby authorized to issue its promissory note in the principal amount of \$2,000. payable on or before forty months after date of issue, with interest at the rate of six percent per annum, and to issue and sell at par \$3,700. of its common capital stock for the purpose of paying in part for the operative rights, properties and equipment referred to in the foregoing opinion.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.
2. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty(30) days from the date hereof, on not less than ten (10) days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application insofar as they conform to the certificate herein granted.
3. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty(30) days from date hereof, on not less than five (5) days' notice to the Commission and the public, time schedules, according to form provided in General Order No. 83, covering the service herein authorized, in a form satisfactory to the Railroad Commission.

4. 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.

5. 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.

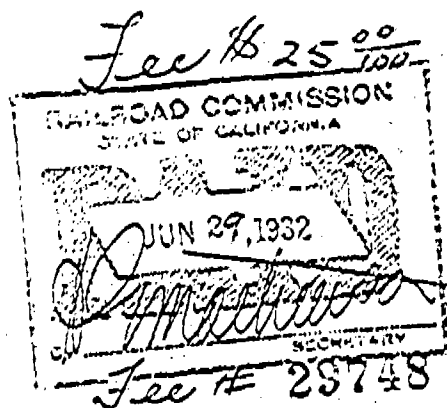
6. Applicant Mt. Lassen Transit Company shall immediately file with this Commission its withdrawal of its tariff and time schedules now on file with this Commission covering service herein authorized to be transferred to applicant Feather River Stage Company.

7. Feather River Stage Company shall keep such record of the issue of the note and stock herein authorized and of the disposition of the proceeds as will enable it to file within thirty (30) days thereafter a verified report as required by the Railroad Commission's General Order No. 24, which order insofar as applicable, is made a part of this order.

8. The stock and note herein authorized to be issued shall not hereafter be urged before this Commission or other public body or court as a measure of value of the operative rights and properties for the purpose of fixing rates, or any purpose other than this proceeding.

9. The authority herein granted will become effective when Feather River Stage Company has paid the minimum fee prescribed by Section 57 of the Public Utilities Act, which fee is \$25.00.

Dated at San Francisco, California, this 27th day
of June 1932.



Ol. Seaver
Leon C. Williams
M. J. C. C.
M. B. C.
Fred G. Stewart
COMMISSIONERS.