

Decision No. 8929.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of )  
SUGAR PINE RAILWAY COMPANY, for an )  
order permitting it to discontinue )  
as a common carrier. )  
. . . . . )

APPLICATION NO. 6311.

Morrison Dunne & Brobeck by J. F. Schuman;  
Sanborn & Roehl by H. H. Sanborn for applicant.  
J. Warne for Madary's Planing Mill, Inc., Protestant.

BY THE COMMISSION:

OPINION.

Sugar Pine Railway Company, a corporation, has petitioned the Railroad Commission for an order authorizing and permitting the discontinuance of its service as a common carrier.

A public hearing on this application was conducted by Examiner Handford at San Francisco at which time the matter was duly submitted and is now ready for decision.

Applicant operates a standard guage railroad in Tuolumne County from the station of Ralph on the line of the Sierra Railway of California to Lyon's Dam transporting no passengers; the traffic on the line consisting almost entirely in the handling of logs which originate on the logging road of the Standard Lumber Company and are transported for such lumber company to its mill located at Standard on the line of the Sierra Railway Company of California. A limited amount of freight has been handled for the Pacific Gas and Electric Company in connection with the construction work of that company and also

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lumber for the account of Madary's Planing Mill, Inc., such lumber originating at the station of Middle Camp and destined to Fresno and other San Joaquin Valley points via the line of the Sierra Railway of California and its connections. Applicant alleges that the business offered to applicants and the amount of freight carried by it has never produced sufficient revenue to defray operating expenses and a reasonable amount for depreciation or any amount on the value of investment; that the operation of the line has always been conducted at a loss and that such loss has been borne by the Standard Lumber Company which owns the entire capital stock of the applicant; that the physical condition of the line is such that a considerable amount of rehabilitation is immediately necessary and that the applicant does not possess funds enabling it to finance such rehabilitation.

At the hearing on this application witnesses for applicant testified as to the physical condition of the line, as to volume of traffic offered for movement and as to the revenue and expenses arising from operation. The Standard Lumber Company, has leased the line of railway owned by applicant and operates its own trains over the line handling in such trains any shipments which may be offered the Sugar Pine Railway, the revenue arising from such shipments accruing to applicant herein. The lease under which this operation is conducted was approved by the Commission under Decision Number 5415 on Application Number 3668, as decided May 23, 1918, and covers the provisions of an agreement between the Sugar Pine Railway and the lumber company, dated April 12, 1918, the lease being for a term of fifteen years. According to an exhibit filed by applicant

herein, the expense of operation has resulted in a deficit since 1916; the deficits being shown in the following tabulation of operation, receipts and expenses:

	<u>Calendar Years.</u>		
	<u>1916</u>	<u>1917</u>	<u>1918</u>
Operating Revenue	83 428.13	78 004.08	22 584.20
Operating Expenses	65 744.36	75 132.63	36 629.51
Net Operating Revenue	<u>17 683.77</u>	<u>2 871.45</u>	*14 045.31
Non-Operating Income	700.00	-	3 645.16
Gross Income	<u>18 383.77</u>	<u>2 871.45</u>	*10 400.15
Deductions from Income	20 111.07	19 837.47	6 804.16
Net Income	*1 727.32	*16 956.02	*17 204.31

Note:- (\*) Indicates deficit.

During the year 1919 the following statement appears on the exhibit:  
Calendar Year.

	<u>1919</u>
Operating Revenue	5 411.60
Operating Expenses	3 630.35
Net Operating Revenue	<u>1 781.25</u>
Non-Operating Income	6 000.00
Gross Income	<u>7 781.25</u>
Deductions from Income	2 959.13
Net Income	<u>4 822.12</u>

The figures for the year 1919, including no maintenance or depreciation costs other than for station service; shipments having been transported on the trains operated by the Standard Lumber Company under the provisions of the lease hereinabove referred to.

The granting of this application is opposed by Madary's Planing Mill, Inc., and by Mr. C. L. O'Brien.

Witnesses for Madary's Planing Mill, testified as to the amount of lumber shipped from Middle Camp station in the period from 1911 to 1920 inclusive and it appears that there is at the present time approximately 3,000,000 board feet of lumber cut and piled at the Sammy Merrill Springs Mill which lumber will require to be transported by auto truck or other conveyance to the station of Middle Camp on the line of applicant

herein. There is also now piled at Middle Camp a considerable amount of lumber, the amount being estimated to be between 750,000 and 1,000,000 board feet. This protestant objects to applicant's request for the abandonment of the line as a common carrier unless satisfactory arrangements are made whereby the lumber now piled at Middle Camp and at Sammy Merrill Springs Mill can be moved within a reasonable time and at the rates now published and in effect; also until the dismantling of the mill can be arranged for and the equipment which may be salvaged and which is useful elsewhere can be moved out.

Mr. C. L. O'Brien, a protestant, testified that he controlled 840 acres of standing timber located five miles from Middle Camp; that he has already shipped in the saw mill machinery with the exception of engine and boilers which were stored at Sonora to be taken to the mill site as soon as weather and road conditions would permit. Witness estimates, as a result of cruising, that from 15,000,000 to 18,000,000 board feet of lumber is available for cutting on the timber land which he controls and that the mill, which is to be erected and operated, will have a capacity of from 35,000 to 40,000 board feet per day and that, during the first season of operation, it is anticipated that a cut averaging 25,000 board feet per day will be the product of this mill and that such lumber will be hauled by motor truck to Middle Camp and thence shipped over the line of applicant's railway to the station of Ralph which is a junction with the Sierra Railway of California.

Since the hearing on this application, applicants and protestant, Madary's Planing Mill, Inc., have each submitted to the Commission conditions under which they were agreeable to the

granting of this application and such conditions have been carefully considered in this proceeding.

It is apparent from the evidence in this proceeding that, other than the lumber to be moved from Middle Camp to Ralph and the small amount of repair parts and supplies necessary for the conduct of the lumber business and the shipments which will offer by reason of the dismantling and removal of the saw mill and plant of protestant, Madary's Planing Mill, Inc., there is no prospective traffic that will justify the continuance of the Sugar Pine Railway as a common carrier. The line originally was constructed as a plant facility to serve the activities of the Standard Lumber Company and the limited volume of traffic, which has been furnished by the public and principally by protestant, Madary's Planing Mill, Inc., did not, in our opinion, justify the Sugar Pine Railway in assuming the responsibilities of a common carrier; the company, however, having assumed such responsibility, has necessarily been required to continue its operation as such, notwithstanding that by reason of the lease of the line to Standard Lumber Company as hereinabove referred to, its activities as a common carrier have been reduced to the serving of a single shipper.

The Commission has carefully considered all the evidence in this proceeding and is of the opinion and hereby finds as a fact that the operation of the Sugar Pine Railway Company as a common carrier is not required by the public convenience and necessity for the reason that the operation can not be continued without substantial loss; the revenue from traffic at present available and in prospect not being sufficient to defray the operating expenses and the items of maintenance and depreciation to say nothing of returning any interest on the

amount invested in physical property. We are of the opinion, however, that arrangements should be made whereby lumber now ready for movement and shipments incidental to the dismantling of the mill of the Madary's Planing Mill, Inc., should be cared for and also <sup>that</sup> other lumber, offered for movement during the period that the Madary's Planing Mill, Inc., shipments are being cared for, should be transported when offered by shippers and the order herein will so provide.

#### ORDER

Sugar Pine Railway Company, a corporation, having petitioned the Railroad Commission for an order authorizing and permitting the discontinuance of its service as a common carrier, a public hearing having been held, the matter having been duly submitted and the Commission being fully advised ,

IT IS HEREBY ORDERED, That applicant herein be and it hereby is authorized to discontinue service as a common carrier; provided, however, that, as a condition of this order, shipments offered by Madary's Planing Mill, Inc., at the station of Middle Camp for transportation to Ralph or to points beyond, or offered at Ralph for transportation to Middle Camp shall be accepted and promptly moved under the same rates and in accordance with the same rules and regulations that are now published by the Sugar Pine Railway Company and governing the matter of freight transportation; provided, further, that Madary's Planing Mill, Inc., be permitted to load and ship any lumber and freight offered at Middle Camp or the spur track at such station along which machinery and skids for loading have been erected and arrangements are to be made by applicant herein with the Standard Lumber Company to permit shipments offered by or for the account of

Madary's Planing Mill, Inc., to be made from the spur track hereinabove referred to which track is alleged to be the property of the Standard Lumber Company, the use of such spur track now being denied said Madary's Planing Mill, Inc., by reason of an injunction issued out of the Superior Court of the County of Tuolumne, State of California, on behalf of said Standard Lumber Company; and provided, further, that cars required for the shipment of lumber shall be promptly furnished and shall be subject to the standard demurrage rules as prescribed by this Commission; and provided, further, that all shipments offered by Madary's Planing Mill, Inc., prior to November 1, 1922, shall be promptly moved in accordance with the foregoing conditions; it being understood, however, that in the event that notice is given by Madary's Planing Mill, Inc., to applicant, Sugar Pine Railway Company, prior to November 1, 1922, that there are no further shipments to be offered the effective date of the obligation of applicant, Sugar Pine Railway Company, to move the freight offered by or on account of Madary's Planing Mill, Inc., will be the date contained in such notice.

IT IS HEREBY FURTHER ORDERED, That., during the time in which transportation service is rendered to Madary's Planing Mill, Inc., in accordance with the foregoing paragraph of this order that shipments under similar conditions will be accepted and transported whenever offered by or for the account of C. L. O'Brien, or other shippers, if any, such shipments to move under similar conditions as those hereinabove specified as applicable to shipments offered by or for the account of Madary's Planing Mill, Inc.

IT IS HEREBY FURTHER ORDERED, That, subject to the exceptions hereinabove contained, service as a common carrier on the line of the Sugar Pine Railway Company may be suspended after thirty days notice will have been given the shipping and

receiving public by the posting of notices at all stations on the line of such railway and by publication in a newspaper of general circulation in Tuolumne County and applicant herein will be required to file with the Railroad Commission a certified copy of notices which are posted and of newspaper publication, as required by this order.

The Commission reserves the right to make such other and further orders in this proceeding as in its judgment may appear necessary or as the public convenience and necessity may require.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 3d day of May, 1921.

H. A. Lovelace

H. A. Brundage

James Martin

Commissioners.