

Decision No. 28708

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
CARL W. FAUCETT)	
to sell, and Yreka Western Railroad)	
Company, a California corporation,)	Application No. 19145
to purchase the properties herein)	
described.)	

Carl W. Faucett, for applicants.

BY THE COMMISSION:

O P I N I O N

In this matter the Railroad Commission is asked to make an order authorizing Carl W. Faucett to sell to Yreka Western Railroad Company, a corporation, all of the properties purchased by him at a judicial sale on July 12, 1933, being the properties formerly owned by Yreka Railroad Company, and authorizing Yreka Western Railroad Company to purchase such properties, to assume such obligations as have been incurred by Carl W. Faucett in connection with the operation thereof, and to issue 250 shares of its common capital stock of the aggregate par value of \$25,000. in exchange for said properties.

It is of record that on June 2, 1933, the Superior Court of the State of California in and for the County of Siskiyou in an action entitled "Anglo California Trust Company, a corporation, plaintiff, vs. Yreka Railroad Company, a corporation, et al. defendants, No. 8015", which action was brought to foreclose the first mortgage of Yreka Railroad Company, entered its judgment and decree of foreclosure and ordered the properties of Yreka Railroad Company to be sold.

The sale, as ordered, was held on July 12, 1933, at which time the properties were bid in by Carl W. Faucett who has been and is now the owner thereof and is engaged in the business as a common carrier and who now desires to transfer them to a corporation.

The properties involved include a line of standard gauge railway extending from Yreka to Montague, a distance of some seven miles, real estate and improvements, all as described in Exhibit "1" attached to the application, together with railroad equipment and properties, an automobile stage and a certificate of public convenience and necessity granted by Decision No. 16458, dated April 10, 1926, permitting the operation of an automobile stage service as a common carrier of passengers and hand baggage between Yreka and Montague, together with pick-up and delivery service in the corporate limits of both towns.

Yreka Western Railroad Company, the proposed purchaser, has been organized under the laws of the State of California on or about August 18, 1933, with an authorized capital stock of \$25,000., divided into 250 shares of the par value of \$100. each, all common. In this proceeding, as stated, Carl W. Faucett asks permission to sell said railroad and other properties to the Yreka Western Railroad Company, which asks permission to acquire said properties and to issue all of its stock and to assume certain indebtedness, reported to approximate \$5,000., which Carl W. Faucett has incurred in the operation of such properties.

Applicants allege that the value of the properties to be transferred is substantially the same as that set forth in Exhibit "C" filed in Application No. 14955 on August 13, 1928, which shows the cost, as of June 30, 1928, at \$144,801.94. However, we do not believe it to be necessary for the purpose of this proceeding to determine the

value of the properties here involved. It appears to us that the issue of \$25,000. of stock for the purpose stated in the application is not unreasonable and the order herein will authorize the issue thereof.

In making this order we wish to place the purchaser upon notice that the certificates of public convenience and necessity 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 in the number of rights which may be given.

ORDER

The Railroad Commission having been asked to make its order authorizing Carl W. Faucett to sell properties to Yreka Western Railroad Company, and authorizing Yreka Western Railroad Company to assume indebtedness and to issue \$25,000. par value of its common capital stock, and the Commission being of the opinion that this is not a matter in which a public hearing is necessary, 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 \$25,000. of stock is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED, that Carl W. Faucett be, and he hereby is, authorized to sell and transfer, after the effective date hereof

and prior to April 1, 1934, to Yreka Western Railroad Company, a corporation, all of the properties purchased by him at a judicial sale on July 12, 1933, being the properties formerly owned by Yreka Railroad Company, together with any additions, betterments and improvements thereto made since July 12, 1933.

IT IS HEREBY FURTHER ORDERED, that Yreka Western Railroad Company be, and it hereby is, authorized after the effective date hereof and prior to April 1, 1934, to purchase such properties and, in payment, to assume such obligations as have been incurred by Carl W. Faucett in the operation thereof, not exceeding \$5,000.00, and to issue \$25,000. par value of its common capital stock.

The authority herein granted is subject to the following conditions:-

1. Within thirty (30) days after the transfer of the properties as herein authorized, Yreka Western Railroad Company shall file with the Railroad Commission a copy of the deed, or deeds, of conveyance under which it acquires and holds title thereto, and also, a statement of the issue of the stock such as is required by the Railroad Commission's General Order No. 24.
2. Within thirty (30) days after the acquisition of the aforesaid properties Yreka Western Railroad Company shall adopt as its own the tariffs, rules and regulations and time schedules now on file in the name of the Yreka Railroad Company.
3. The authority herein granted will become effective twenty (20) days from the date hereof.

DATED at San Francisco, California, this 8th day of January, 1934.

C. J. [Signature]
[Signature]
[Signature]
[Signature]
[Signature]
Commissioners