

Decision No. 28766

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of
SACRAMENTO NORTHERN RAILWAY for
certificate of public convenience and
necessity to operate an auto-stage
line for the transportation of passen-
gers, baggage, mail and express, as a
common carrier, for compensation,
between Oroville and the California-
Nevada State Line near Peavine in the
County of Sierra, State of California,
and intermediate points.

Application No. 19968

ORIGINAL

L. N. BRADSEAW, for Sacramento Northern Railway,
Petitioner.

ORLA ST. CLAIR, for Feather River Stage Company,
Protestant in Part.

BY THE COMMISSION:

SECOND SUPPLEMENTAL OPINION

Petitioner, Sacramento Northern Railway, requests modification of the order in Decision No. 28766 herein, in which applicant was granted a certificate of public convenience and necessity authorizing the establishment and operation of a stage line, with certain restrictions, between Oroville and the California-Nevada State Line, near Peavine, over the new Feather River highway via Quincy and Portola. Applicant now asks to make Portola its eastern terminus and for an order consolidating the operating right granted by Decision No. 28766, as modified herein, with the operating right heretofore granted applicant by Decision No. 29290, on Application No. 19822, authorizing an automotive passenger stage service between Sacramento, Oroville, and Chico. No alteration of restrictions imposed by Decision No. 28766 herein is sought.

A public hearing was held at San Francisco and the matter is now ready for decision.

H. A. Mitchell, president of applicant corporation, testified that applicant had decided not to conduct interstate stage operation between Sacramento, California, and Reno, Nevada, and desired to make Portola, California, its eastern terminus, instead of the California-Nevada State Line; that stage operation between Sacramento, Oroville and Chico, as authorized by Decision No. 29290, was established March 31, 1937, and has been continuously operated since such date; and that consolidation of this operative right with the one between Oroville and Portola is desired in order to furnish through service; that by the modification proposed, applicant will save \$3,300 annually in operating expense, by eliminating the service between Portola and Reno.

The modification was opposed by Feather River Stage Company, on the ground that there is not enough traffic between Quincy and Portola to support one carrier, and that if applicant is authorized as requested to transport passengers from all points east of Oroville to points served by applicant west of Portola, it will injure protestant's ability to maintain its local service between Quincy and Portola. The objection appears to be without merit as applicant now has the right to handle its traffic between points west of Quincy and all points east of Quincy and is restricted solely against local traffic between Quincy and Portola. The proposed enlargement of this traffic by adding points west of Oroville does not affect protestant, as its operations end at Oroville and it operates over another route (via Buck's Ranch) than that to be traversed by applicant, via the new Feather River highway.

With respect to the petition for consolidation of the operating rights, herein discussed, in order to provide through service between Sacramento and Portola applicant asserts that ample testimony was received at the original hearing to justify such consolidation.

The record bears out such contention with respect to the consolidation and the modification sought and an order therefor will be made.

Sacramento Northern Railway 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.

SECOND SUPPLEMENTAL ORDER

Sacramento Northern Railway having made petition for modification of the certificate granted to it by Decision No. 28766 herein, dated April 27, 1936, a public hearing having been held and the matter duly submitted,

IT IS HEREBY ORDERED that the certificate granted by said Decision No. 28766 be, and the declaration in the same, appearing at page 8 of the typewritten decision, hereby is amended to read as follows:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation of automotive transportation service for the transportation of passengers, baggage and express between Oroville and Portola over and along the Feather River highway.

IT IS HEREBY FURTHER ORDERED that condition 2 attached to said certificate be amended as follows:

The authority herein granted to establish such service is subject to the particular restriction that applicant shall perform no local service between Quincy and Portola, including Portola nor between intermediate points between Quincy and Portola; also that the transportation of express shall be limited to property transported under contract with Railway Express Agency, Inc., without limitation as to weight or kind of automotive vehicle used.

Sacramento Northern Railway having made application for the consolidation of its operative rights as heretofore granted by

Decision No. 28766, on Application No. 19968, and by Decision No. 29290, on Application No. 19982, a public hearing having been held and the matter having been duly submitted,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the consolidation and merging of the operative rights heretofore granted applicant by said Decision No. 28766, as amended herein, for automotive transportation of passengers, baggage, and express between Oroville and Portola and another Decision No. 29290 for automotive transportation of passengers, baggage and express between Sacramento, Oroville and Chico, into one unified and complete operation between termini, to-wit: Sacramento and Portola, and all intermediate points heretofore authorized to be served by either or both of said decisions, and no others, and subject to all the restrictions and limitations heretofore imposed by each of said Decisions Nos. 28766 and 29290, except as herein altered or amended.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity therefor is granted to Sacramento Northern Railway subject to the following conditions:

1. The certificate of consolidation and unification herein granted shall be of no force or effect unless within fifteen (15) days after the date hereof, applicant shall have paid to the Commission the fifty dollar (\$50) filing fee as required by Section 50 $\frac{1}{2}$ of the Public Utilities Act.
2. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
3. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate, and concurrently make effective on not less than ten days' notice to the Railroad 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 in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.

4. Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Railroad Commission and the public, a time schedule or time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

5. 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 obtained.

6. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 29th day of

November, 1937.

W. H. Harrison
Frank Whittell

Wm. L. Rieley
COMMISSIONERS.

