

ORIGINAL

39126

Decision No. _____

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THOMAS B. RILEY, doing business as)
GRAY LINE TOURS, for certificate of)
public convenience and necessity to)
operate a common carrier service for)
the transportation of passengers and)
their baggage for compensation bet-)
ween Redding and Burney Falls State)
Park and intermediate points over)
State Highways 44 and 89.)

Application No. 26981
(as amended)

T. B. RILEY, N. E. ROBOTHAM and ALLISON WARE, for
applicant.
JAMES V. LLOYD, Superintendent Lassen Volcanic
National Park, interested party.
DON HUMMEL, for Lassen National Park Company,
protestant.

O P I N I O N

In the above entitled application, as amended, a certifi-
cate of public convenience and necessity is sought to conduct a
passenger stage operation, including the right to transport baggage
and express, between:

- (a) Redding and Lassen Volcanic National Park
and intermediate points via State Highway
44, a distance of 49 miles, and
- (b) McArthur-Burney Falls State Park and Lassen
Volcanic National Park and intermediate
points via State Highway 89, a distance of
41 miles.

The amended application also requests that the certificate heretofore
issued to the Lassen National Park Company be revoked and annulled. (1)

A public hearing was held on December 14, 1945, before
Examiner Hunter, at which time the matter was taken under submission.

(1) For convenience, hereafter the Lassen Volcanic National Park
will sometimes be designated as Lassen Park; McArthur-Burney
Falls State Park as Burney Falls and Lassen National Park
Company as Park Company. Revocation of protestant's opera-
tive rights is not an issue in this application proceeding.

On January 23, 1946, the Commission received a petition from Don Hummel, Secretary and Treasurer of the Park Company requesting that submission be set aside and the matter reopened for further hearing. In support of this request, Mr. Hummel alleged that upon his return to the United States on January 12, 1946 from China, where he was on duty with the United States Army Air Forces, he was advised of the status of this proceeding, and due to his interest in the matter desired an opportunity to protest the granting of the application on the ground that the proposed operation between Redding and Lassen Park, if established, would be in competition with a certificated operation by the Park Company, of which he was the operating official. The Commission set aside submission and reopened the matter for further hearing. Such further hearing was held at Redding April 4 and 5, 1946. At the latter date the matter was again taken under submission, subject to the filing of concurrent briefs.

Applicant now conducts a passenger stage operation between Redding, California, and Lakeview, Oregon, via Alturas under the name of Redding-Alturas-Lakeview Stages. Applicant's present operation would intersect that of the proposed line between Burney Falls and Lassen Park.

It is planned to conduct a single round-trip daily service over the Redding-Lassen Park line during the so-called open park season,⁽²⁾ and for the remainder of the year the operation is to be adjusted so as to meet the traffic demands. On the Burney Falls-Lassen Park line the service is planned to be conducted on an on call basis, limited at the outset, however, to a minimum of four passengers per trip. The proposed fare structure is set forth in Exhibit "C" attached to the application.

(2) Exhibit No. 1 shows the opening and closing dates of the Park for the period 1936 to 1944, inclusive. The prewar date for opening was May 1 and closing approximately September 30.

One-way through fares between the Park and both Redding and Burney Falls are based on a rate of 4 cents per mile. The round-trip fares between these points are based on 3.6 cents per mile, or 180% of the one-way fare. This schedule shows that the proposed fares to intermediate points on the Redding-Lassen Park line are based on a rate of approximately 5 cents per mile one way and 4.5 cents per mile round trip. It does not provide, however, for fares to intermediate points on the Burney Falls-Lassen Park line. At the hearing applicant stated that it was his plan to offer fares to intermediate points on this line to be based upon approximately the same rate per mile as those shown for the intermediate points on the Redding-Lassen Park line. Tickets to be sold on each of the proposed routes provide for stop-over privileges at points of interest along the line.

At the outset applicant proposes to conduct the operation through the use of two sedans, one having a seating capacity of 11 passengers and the other 14 passengers. Additional equipment is to be placed in service in keeping with the traffic demands.

The record shows that there is no passenger stage operation conducted over the proposed Burney Falls-Lassen Park line. With respect to the proposed operation between Redding and Lassen Park that service would, if established, be conducted along a route over which the Park Company now operates a passenger stage service between Redding and Lassen Park. (3) It is applicant's contention that this

(3) Granted by Decision No. 28607, dated March 2, 1937, in Application No. 20062. Decision No. 31141 in Supplemental Application No. 20062, dated November 5, 1938, granted Lassen National Park Company authority to conduct this operation on a seasonal basis, from June 15 to September 15 of each year.

The published one-way fares on this operation are based on a rate of approximately 6 cents per mile, with a reduced round trip fare between Redding and Manzanita Lake.

public transportation is conducted incidental and subordinate to the company's movement of supplies to its Manzanita Lake Lodge located in the Lassen Park and operated by the same interests as the Park Company. Both supplies and passengers are transported in the same vehicle, which applicant alleges has no definite schedule of operation, the movement being largely governed by the volume of freight to be transported.

The Park Company has a contract with the Department of the Interior, National Park Service, to conduct all public concessions in Lassen Park. It is applicant's further contention that the public transportation provided by the Park Company, both before and subsequent to Pearl Harbor, has been inadequate to reasonably meet the demands of the public for transportation over this route. To support this position it is alleged in the application that during the nine-year period ending December 31, 1944 the Park Company transported a total of only 230 passengers between the Lassen Park Gate and Redding, while during this nine-year period a total of 643,633 tourists visited the Park. Exhibit No. 4 is a tabulation setting forth traffic data taken from the annual reports of the Park Company as filed with this Commission during the eight-year period 1936 to 1944, inclusive, except for the year 1942. This statement shows the following for this eight-year period:

Number of days bus operated	337
Number of passengers carried	230
Number of visitors entering park	590,190

Applicant contends there is an urgent public need for the transportation it proposes to provide, and that such a service will be well patronized and can be conducted on a remunerative basis on the proposed level of fares as soon as the public is informed of this operation. With such an adequate and dependable service applicant alleges the business will expand with the development of the many

natural recreation grounds and scenic points of interest along the line in the Lassen Park area. It is applicant's plan, so he testified, to offer reduced rates if the volume of business justifies. It is estimated that the proposed service can be conducted at a total cost of 20 cents per bus or sedan mile. The record shows that applicant plans to establish joint fares with connecting carriers, both rail and passenger stage, and advertise the Park service on a national basis. To this end he testified that he now has the assurance of the cooperation of various agencies, including Southern Pacific, Pacific Greyhound, Humboldt Motor Stages, American Railway Express and Travel Bureaus.

At the hearing December 14, 1945, a number of public witnesses testified in support of the granting of this application.

The testimony of these public witnesses may be briefly summed up as follows:

That the present public transportation service between Redding and Lassen Park is inadequate; that many of the long-time residents of Redding were unaware that a public passenger transportation service existed between Redding and the Park; that the equipment operated was inadequate to provide reasonable passenger service due to the fact that the station wagon employed in this operation was used primarily to transport supplies to Manzanita Lake Lodge, and, secondarily, as a passenger vehicle, with a limited seating capacity; that the Park Company made no effort to inform the public of this transportation service; that the alleged inadequate service over a period of years has resulted in serious inconvenience to the public and the retardation of the natural resources in the National Park area; that there is an urgent public need for the transportation service such as is proposed by applicant herein; that plans are under way to develop the natural resources in the Lassen Park area, including the development of public highways, which will increase the necessity for public passenger transportation; that the management of the Park Company showed no interest in cooperating with parties interested in developing a plan to establish a circle tour through the Lassen Park area; and, that passengers offering themselves for transportation were refused service by the Park Company.

The only opposition to the granting of this application, as reflected by the record adduced at the hearing December 14, 1945, was that contained in a letter from Dallas W. Dort, President of Lassen National Park Company under the date of December 7, 1945, together with a letter under date of November 7, 1945. At the request of the writer and with the consent of applicant these letters were made a part of the record. Mr. Dort stated in this correspondence that he was unable to attend the hearing as he was out of the state at that time, and furthermore that he was unable to arrange for representation. (4)

At the hearings April 5 and 6, 1946, the protestant Park Company, through its manager and attorney, Don Hummel, cross-examined a number of applicant's witnesses who testified at the original hearing, and developed the fact that their testimony was

(4) The following is quoted from the letter of December 7, 1945:

"---I have written Mr. Riley that although we desire in all cases to be as cooperative as possible, I did not see how we can do anything but oppose his application since it is now clear that what he proposes is a service directly duplicating that under our present certificate.

"Our operations during the war have been limited to three round trips a week since we have felt that the public demand was not sufficient to warrant additional facilities. However, it has always been our intention to operate as full a service under our present certificate as the needs of the public require and we intend to install an increased service with new equipment on the basis of a contemplated increase in travel following the end of the war. With the same equipment we will operate a continuation of the service over the Loop highway in the Park under our exclusive franchise for operations in the Park. It seems perfectly clear that the public will not be benefited by the operation of two exactly duplicating bus services between Redding and the Park and that neither Mr. Riley nor our Company could operate on a sound basis if such duplication existed. The logical and efficient way of handling the operation is for one continuous bus line to operate over the Loop highway in the Park and the route outside the Park to and from Redding. The latter service is of course fully covered under our present certificate and the Park operation is covered under our contract with the Government. We desire therefore to raise strong objection to the granting of a certificate over the route to Mr. Riley."

based largely upon opinions formed as residents of that area through casual observations rather than through specific investigation. For the most part these witnesses were unable to specifically fix the time and place for alleged failure to provide reasonable service.

In addition to cross-examining applicant's witnesses, protestant called a number of public witnesses, including a representative of Southern Pacific Company, Pacific Greyhound Lines, Golden Eagle Hotel, and a number of the Park Company's former employees. The testimony of these witnesses was to the effect that it is the practice of the Park Company in the conduct of its bus operation to make regular scheduled calls at the Southern Pacific Depot, Pacific Greyhound Lines bus depot, and the Golden Eagle Hotel, which was the Redding terminal for passenger operations, and that at no time to their knowledge were passengers refused transportation. With respect to applicant's contention that the Park Company did not advise the public of this operation, protestant presented testimony to show that schedules of its operation were published and distributed at different points in the city.

Manzanita Lake Lodge is located approximately one mile east of the west boundary of Lassen National Park. State Highways 44 and 89 intersect at a point about halfway between the Lodge and the west Park boundary. In other words, to travel by public highway between Redding and Burney Falls via State Highways 44 and 89 it is necessary to travel a short distance within the boundaries of the Park. A checking station is maintained within the Park which is located a short distance from the junction of these two highways.

The record shows that the need for public transportation between Redding and Lassen Park is restricted largely to transportation to and from the Manzanita Lake Lodge, for the reason that there is very little development that calls for public transportation to

and from intermediate points between the Lodge and Redding. Even though the Commission was disposed to grant this portion of the application, such certificate would for jurisdictional reasons be limited to operation over State Highway 44 between Redding and the west Park boundary, and therefore would not provide for public transportation to or from the Lodge.

Referring to that portion of the application seeking authority to conduct a passenger stage service between Burney Falls and Lassen Park over State Highway 89, the record shows that while the area traversed by this route is undeveloped there is some need for public transportation between the termini of this proposed operation. This public need should increase as the natural resources are developed in this area. It is evident that the future will see substantial development from a tourist standpoint, also considerable public money is to be spent in the improvement of this state highway in the near future. Applicant proposes to conduct an on call service over this route, limited to a minimum of four passengers per trip. Under this plan the amount of service would depend upon the public demand. The need for such public service is contingent upon applicant's ability to pick up and discharge passengers at the Manzanita Lake Lodge. Such a service would involve an operation within the Park boundary between the intersection of State Highway 89 and the west Park boundary, and the Lodge, a distance of about one mile, over which this Commission would have no authority to issue a certificate.

In view of the fact that the record shows there is some need for public passenger stage service between Burney Falls and the Manzanita Lake Lodge and that there is no public service now provided between these points, the Commission will by subsequent order grant applicant the right to operate between Burney Falls and the

west boundary over Route 89, contingent upon applicant's showing that he has secured necessary authority to operate within the Park boundary between the west boundary line and the Manzanita Lake Lodge.

The record also shows that protestant Park Company has a contract with the National Park Service, Department of the Interior, which grants it a preferential right to conduct public transportation over all the highways within Lassen Park. This right, together with the right to conduct a passenger stage service between the Park boundary and Redding, which was granted by this Commission, places the Park Company in a position to provide a through passenger stage service between Redding and the Manzanita Lake Lodge.

It is apparent from this record that the service heretofore performed by protestant Park Company has not been of a high order. The record shows that the Park Company plans to materially improve this service in the future through the operation of new and better equipment. In fact, the Company has already secured a new 12-passenger bus and proposes to put it in operation for the coming season.

Upon this record, the Commission finds:

(1) That the volume of traffic on each of the proposed operations by applicant, i.e., between Redding and the Park and between Burney Falls and the Park, is not sufficient to justify the issuance of more than one certificate to conduct a passenger stage operation on either line.

(2) That public convenience and necessity do not require the issuance of a certificate authorizing an additional passenger stage service between Redding and Lassen Volcanic National Park.

(3) That upon the filing of a supplemental application within the time specified in the order herein, showing that applicant has obtained authority to operate within Lassen Volcanic National Park between the west boundary thereof and Manzanita Lake Lodge, public convenience and necessity will require the issuance, by supplemental order, of a certificate authorizing applicant to operate an on call passenger stage service between McArthur-Burney Falls State Park and Lassen Volcanic National Park via State Highway 89.

O R D E R

Based upon the foregoing opinion and the findings therein contained, IT IS ORDERED that Application No. 26981 is hereby denied, but without prejudice to the filing of a supplemental application, as indicated in Finding No. 3 of the opinion, on or before January 1, 1947.

The effective date of this order shall be 20 days from the date hereof.

Dated at San Francisco, California, this 18th day of June, 1946.

David R. ...
Justice F. ...
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COMMISSIONERS