

Decision No. 51800**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of McCLOUD RIVER)
 RAILROAD COMPANY, a corporation,)
 for a certificate of public)
 convenience and necessity au-)
 thorizing extension of highway)
 common carrier service over U. S.)
 Highway 299 and California High-)
 way 89 and for authority to)
 interchange equipment with)
 Pacific Motor Trucking Company.)

Application No. 36965

O P I N I O N

The applicant filed this application on May 17, 1955 in order to obtain authority for highway common carrier service between McCloud and Burney via State Highway 89 and U. S. Highway 299. No protests to the application have been received.

Applicant is a short line railroad operating in both interstate and intrastate commerce. It has extended from the Southern Pacific at Mt. Shasta City to Hambone via McCloud. A branch is now under construction from Ditch Creek to Burney. The result will be a line of railroad roughly parallel to State Highway 89 between McCloud and Burney. It is desired to extend the highway authority of applicant in a manner similar to its rail extension. Applicant also seeks access rights from U. S. Highway 99 at Redding over U. S. Highway 299 to Burney.

The motor carrier service of applicant stems from a "grandfather" passenger right. This right, between Mt. Shasta City and McCloud, was acquired by applicant or a predecessor corporation in 1927. It was last dealt with in Decision No. 29976, dated July 27, 1937, in Application No. 21342. Applicant is now operating under the authority defined in the latter decision. It includes,

among other things, permission for interchange of equipment with Pacific Motor Trucking Company at the junction of U. S. Highway 99 and State Highway 89, called Shasta Junction.

Applicant attached necessary financial data to its application. At year end, 1954, the ratio of current assets to current liabilities was approximately two to one. At the same time applicant reports capital of \$419,500 and corporate surplus of \$869,706.64. Equipment for this operation will be leased from Pacific Motor Trucking Company. Applicant has operated between Mt. Shasta City and McCloud for eighteen years. Its facilities and personnel are adequate.

It appears that public convenience and necessity require the granting of this application. It also appears that the language, in which some of applicant's authority is now couched, is not entirely clear. For that reason applicant's present authority should be revoked and a new certificate issued embodying the highway common carrier operating authority of applicant. No public hearing appears to be necessary.

Applicant is placed upon notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights 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 as to the number of rights which may be given.

O R D E R

Application having been filed and the Commission having considered the same and being of the opinion and finding that public convenience and necessity so require, therefore,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to McCloud River Railroad Company authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of property between Mt. Shasta City, McCloud and Burney and all intermediate points along the following route, namely: U. S. Highway 99 from Mt. Shasta City to junction, State Highway 89; State Highway 89 to junction, U. S. Highway 299; U. S. Highway 299 to Burney; also between Redding and Burney via U. S. Highway 299, provided, however, that no service shall be rendered between Redding and Burney nor between Redding or Burney and any point intermediate to Redding and Burney on U. S. Highway 299, nor between such intermediate points.

(2) That McCloud River Railroad Company is authorized to enter into agreements for lease or interchange of equipment at the junction of U. S. Highway 99 and State Highway 89 known as Shasta Junction, Redding or both with Pacific Motor Trucking Company for the purpose of establishing service between points on or beyond the highway common carrier lines of McCloud River Railroad Company and points on or beyond the lines of Pacific Motor Trucking Company. No such contract or agreement shall be effective unless and until a copy thereof is filed with, and the terms thereof approved by, this Commission.

(3) That in providing service pursuant to the authority herein granted, applicant shall comply with the following service regulations:

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate herein granted.
- (b) Within sixty days after the effective date hereof, and upon not less than five days' notice to the Commission and the public, applicant shall establish the service herein authorized and comply with the provisions of General Order No. 80 by filing in triplicate and concurrently making effective tariffs satisfactory to the Commission.

(4) That all operating authority as a highway common carrier, from whatever source derived, now and heretofore possessed by McCloud River Railroad Company is hereby revoked and cancelled, said revocation and cancellation to become effective simultaneously with the establishment of the service herein authorized.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 9th day of August, 1955,

John E. Mitchell President
James J. Calmes
Ronald L. ...
...
... Commissioners