

**ORIGINAL**Decision No. 70932

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of FEATHER RIVER RAILWAY  
COMPANY to operate as a highway  
common carrier, over irregular routes,  
between Feather Falls, California,  
and Oroville, California.

Application No. 48398  
(Filed April 13, 1966;  
amended May 24, 1966)

O P I N I O N

On April 13, 1966, applicant Feather River Railway Company filed its application seeking a certificate of public convenience and necessity to operate as a highway common carrier in the transportation of general commodities, not including commodities of unusual value, Class A and Class B explosives, household goods as defined by the Commission, commodities (other than wood chips) in bulk, and commodities requiring special equipment, over irregular routes between Feather Falls and Oroville, in cooperation with the Western Pacific Railroad, alleging as follows:

1. Applicant is currently operating a common carrier railroad between Feather Falls, Butte County, California, and a junction with the Western Pacific Railroad known as Intake, Butte County, California, where physical interchange of cars is accomplished.
2. The Oroville Dam Project of the State of California, on the Feather River, will shortly cause the flooding of six miles of the Feather River Railway, thus severing all rail connections to Feather Falls.
3. Applicant is controlled by Georgia-Pacific Corporation which owns and operates a lumber and lumber by-products producing complex at Feather Falls. Approximately 80 percent of the production

from this location is shipped by rail to transcontinental destinations. The mill employs approximately 230 people with payrolls exceeding \$1-1/2 million per year, purchases of over \$500,000 per year, and taxes of approximately \$500,000 per year.

4. No other common carriers operate between the aforementioned points and it is imperative that the producing complex at Feather Falls not be isolated and cut off from rail transportation.

5. For the period ended September 30, 1965, applicant had a total operating income of \$100,894.09, total operating expenses of \$74,299.21 and net revenue from railway operations of \$26,594.88. After adding other income of \$10,015.30, and deducting railway tax accruals of \$10,746, rents payable of \$19,276.33, and fixed charges of \$668.91, the resulting net income transferred to retained income unappropriated was \$5,918.94.

6. As of September 30, 1965, applicant had current assets of \$258,367.88, and road and equipment properties (after deducting depreciation) of \$58,702.44, making total assets of \$317,070.32, and current liabilities of \$204,887.17, and shareholders' equity of \$112,183.15, making total liabilities and shareholders' equity of \$317,070.32.

7. Applicant proposes to operate on a year-round basis with daily service, except Saturdays, Sundays and holidays, on irregular schedules. It proposes to use 6 dual-drive, diesel-powered tractors, 5 sets of flat doubles, 27 28-foot trailers and 5 sets of chip/bark double trailers in its service.

8. In its highway common carrier operation applicant proposes to continue in effect its joint freight railway rates with such rates being restricted to apply only when additional or previous movement is via rail. The charges for the proposed service would be on the

same divisional basis as presently in effect for applicant's railroad freight operations.

Since the rail line will be abandoned, applicant cannot rely on the alternative application doctrine and will require an exemption from the provisions of Minimum Rate Tariff No. 2, so that shippers between the points involved will have the benefit of the lower rail rates. No justification appears for granting to applicant a complete or permanent exemption from the minimum rates established for the truckload transportation of property between the points in question. However, in order to avoid unjustified increases in the rates currently available to shippers utilizing the carload rail rates, applicant will be authorized, without regard to the minimum rates which otherwise might be applicable, to publish, maintain, and participate in joint truck-rail carload commodity rates on the same level as the current rail carload commodity rates. Applicant is put on notice, however, that the Commission may review this exemption in the future.

Inherent in the proposal is the need for relief from the long- and short-haul provisions of Article XII, Section 21, of the California Constitution, and Section 460 of the Public Utilities Code. Such relief will also be granted.

The letter dated May 23, 1966 from the applicant to the Secretary of the Commission is hereby ordered filed as of May 24, 1966 as an amendment to the application.

The Commission takes official notice of the filing of a certified copy of applicant's Articles of Incorporation as Exhibit 1 attached to applicant's Application No. 44283, filed March 21, 1962.

The Commission having considered the application and the amendment thereto, finds that public convenience and necessity

require that the application be granted as provided in the ensuing order. A public hearing is not necessary. It appears that applicant possesses the experience, equipment, personnel and financial resources to institute and maintain the operation authorized herein.

Applicant is hereby placed on 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 modified or canceled 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

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Feather River Railway Company, a corporation, authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

2. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- a. Within ninety days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with

and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-D. Failure to comply with and observe the safety rules, or the provisions of General Order No. 100-D, may result in a cancellation of the operating authority granted by this decision.

- b. Within one hundred eighty days after the effective date hereof, applicant shall establish the service herein authorized and file tariffs, in triplicate, in the Commission's office.
- c. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than three days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- d. The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80-A.
- e. Applicant shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time shall prescribe.

3. Applicant is authorized, without regard to the minimum rates which otherwise may be applicable, to publish, maintain and participate in joint truck-rail carload commodity rates on the same level and on the same divisional basis as the current rail carload commodity rates from and to points on the lines of Feather River Railway Company.

4. Applicant, in establishing and maintaining the rates and charges authorized hereinabove, is authorized to depart from the provisions of Article XII, Section 21, of the Constitution of the

State of California, and Section 460 of the Public Utilities Code; in publishing rates under the authority conferred in this paragraph, applicant shall make reference in its schedules to this order.

5. The authority granted herein shall expire unless exercised within one hundred eighty days of the effective date of this order.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 1st day of JULY, 1966.

Fredrick B. Halaluff  
 President

George E. Brown

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Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.

Feather River Railway Company, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities over irregular routes between Oroville and Feather Falls subject to the following

restriction:

Whenever Feather River Railway Company engages other highway carriers for the transportation of property of Georgia-Pacific Corporation or customers or suppliers of said corporation, Feather River Railway Company shall not pay such other carriers rates and charges less than the rates and charges published in its tariffs on file with this Commission.

Applicant shall not transport any shipments of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Item No. 5 of Minimum Rate Tariff No. 4-B.
2. Class A and B explosives as described in American Trucking Associations, Inc., Agent, Motor Carrier's Explosives and Dangerous Articles Tariff 12.
3. Commodities of unusual value.
4. Commodities when transported in bulk, except wood chips in bulk.
5. Commodities requiring special equipment and handling because of unusual size, weight or shape.

End of Appendix A

Issued by California Public Utilities Commission.

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