

Decision No. 25078

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of }  
 the PACIFIC MOTOR TRANSPORT COMPANY }  
 for a certificate of public convenience }  
 and necessity to operate an alternative } First Supplemental  
 motor freight service route between } Application No. 16228  
 San Jose, Santa Clara and Campbell, }  
 California. }

E. J. Foulds, for Applicant.

CARR, Commissioner -

**ORIGINAL**OPINION on FIRST SUPPLEMENTAL APPLICATION

By Decision No. 22558, of date June 21, 1930, (34 C.R.C. 779), the Commission herein granted a certificate to applicant for automotive service for the transportation of freight between San Jose and Santa Cruz and Capitola, including intermediate points between Los Gatos and Santa Cruz and Capitola, the routing being over the main highway between San Jose and Santa Cruz, with the privilege of picking up and delivering freight at points within one mile of either side of the specified route.

By its First Supplemental Application Pacific Motor Transport Company asks authority to establish an alternative routing through Santa Clara and Campbell. It proposes to run one of its trucks which it now operates between San Jose and Los Gatos via this alternative route and to transport on this truck, and other trucks if business justifies, l.c.l. freight of the Southern Pacific Company destined to Santa Clara and Campbell. No inbound business of any consequence is anticipated from this alternative route. The outbound business amounts to about 3 tons a day on the average from the two points. By transporting l.c.l. freight of the Southern

Pacific Company from San Jose to Santa Clara and Campbell it is estimated that the Southern Pacific Company will save some \$600.00 a month in operating expense, being the difference between its present costs and payment to the Pacific Motor Transport Company for its truck service of its estimated cost plus 10%.

A public hearing has been held upon this supplemental application, at which no one appeared in opposition thereto.

The evidence fully justifies the granting of applicant's request for the establishment of the alternative routing for the service desired.

Pacific Motor Transport Company 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.

The following form of order is recommended:

#### ORDER

A public hearing having been had on the first supplemental application herein, and good cause appearing therefor,

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted applicant Pacific Motor Transport Company, a corporation, as an extension and enlargement of its rights heretofore granted by Decision No.22558, on Application No.16228, for the operation of automotive trucks for the transportation of property between San Jose, Santa Clara, Campbell and Los Gatos over and along the following route:

From San Jose to Santa Clara over the Alameda - Grant Street; from Santa Clara City limits, south on the Santa Clara and Los Gatos road through Campbell to Los Gatos; and an alternative route from Los Gatos via San Jose - Los Gatos Road to Stevens Creek Road and Meridian Road into San Jose.

IT IS HEREBY FURTHER ORDERED that the certificate of public convenience and necessity herein granted is subject to the following conditions:

1. No local service shall be performed between Santa Clara and Los Gatos and points intermediate thereto.
2. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
3. Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof, on not less than ten days notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders.
4. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from date hereof, on not less than five (5) days notice to the Commission and the public, time schedules, according to form provided in General Order No.83, 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 secured.
6. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

The foregoing opinion and order are hereby adopted as the opinion and order of the Railroad Commission of the State of California.

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

Dated at San Francisco, California, this 22nd day of August, 1932.

C. Seaver  
Leon Whitney  
W. H. Carr  
W. B. Harris  
Fred G. Stewart  
COMMISSIONERS.