

Decision No. 25289.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of PACIFIC MOTOR TRANSPORT COMPANY
and AMADOR CENTRAL RAILROAD COMPANY
for certificate of public convenience
and necessity to operate motor trucks
for transportation of property between
Stockton, California and the cities
of Ione, Martel, Jackson, Sutter
Creek and Amador City, California.

ORIGINAL

Application
No. 18010

In the Matter of the Application of
ANGELO PICCARDO and ANDREA PICCARDO,
doing business under the firm name
and style of PICCARDO BROTHERS, for
a certificate of public convenience
and necessity to operate an auto
truck line for the transportation of
property, for compensation, and as a
common carrier, over the public
highways between Stockton, San Joaquin
County, and Jackson, Amador County,
California, and intermediate points,
via Waterloo, Lockford, Clements, Ione,
and Martell, in conjunction with and as
an extension and enlargement of the auto
truck service now being rendered by
applicants between Martell and Jackson,
California, and intermediate points.

Application
No. 18061

H.W. Hobbs and E.C. Erickson for Pacific Motor
Transport Company, and Amador Central Railroad
Company, applicants and protestants in
Application No. 18061.

Sanborn & Roehl, by W.H. Kessler for Piccardo
Brothers, applicants and protestants in
Application No. 18010.

Thomas S. Louttit and L.J. Smallpage for John Smalley,
protestant as to both applications.

STEVENOT, COMMISSIONER:

OPINION

Each applicant in the above entitled proceedings seek
certificate of public convenience and necessity under Chapter 213,
Statutes of 1917, as amended, to establish and maintain auto truck

service for the transportation of freight between Stockton and Jackson, via Lockeford, Clements and Ione. The offers are on a practical equality as to rates and service, but differ in effect as to the Amador County terminals. Pacific Motor Transport Company (hereinafter called Transport Company) and Amador Central Railroad Company (hereinafter called Amador Central) seek to serve not only the rail head at Martell (now the limit of service) but also to serve Jackson, Sutter Creek and Amador City. Piccardo Brothers now serve all four points named and request extension of service between Martell and Stockton of their present certificated rights between Sacramento and Jackson and Martell and the other points.

Public hearings were held at Stockton and Jackson and both matters, by stipulation of the parties, were consolidated for hearing and decision.

The rail service, which has been maintained for decades consists of branch line service between Galt and Ione by Southern Pacific Company. Between Ione and Martell the territory is served by Amador Central. These two roads allege that their tonnage has been diverted to so-called "contract" truck operators and that the volume offered is now only a few hundred pounds daily and does not justify continued operation for l.c.l. shipments. To meet this situation, Southern Pacific through the Transport Company joined with Amador Central in the present application to substitute truck service particularly, (but not exclusively) and for Railway Express Agency, Inc. for l.c.l. operation. Piccardo Brothers followed with the offer to extend their certificated service over the same highway route and between the same termini.

Much testimony affirmative of the need of the service was presented. This showed that there is a considerable freight movement between Stockton and Amador County points. But much of this testimony was coupled with the assertion that there was a desire that rail facilities be maintained; in fact some witnesses expressed

the desire that no injury be done to rail service that might tend to eliminate it. It is also true as shown by the record, that the large movement by unauthorized truck carriers, admitted by these witnesses, is now actually menacing the continuation of rail service.

By Exhibit No. 1 (Application No. 18010) a comparison of rail and truck performance prepared by L. B. Young, a witness for Transport Company, shows that it now takes 40 hours by rail from San Francisco, Sacramento and Stockton to Martell. With truck service between Stockton and Ione, as proposed by Transport Company, the time will be reduced to approximately 15½ hours. The installation of truck service will permit of the reduction of service by rail to three times weekly (mainly for carload movements), instead of daily, making a saving of 2020 miles per annum, or a money saving of \$376. per month. Amador Central presented similar comparison (Ex. No. 6 in App. No. 18010) showing a saving of \$475. but these figures included a saving of \$120. a month for truck deliveries from Ione to Martell, Sutter Creek and Jackson which this carrier had no authority to operate.

Exhibit No. 5 of Amador Central shows that only twice in the eleven year period ending with 1931 did its operations show revenues in excess of operating cost and only once (1930) did it show a net income after interest requirements. In 1930 extraordinary movement of materials for the construction of electric power facilities east of Jackson contributed excess earnings, but this movement has terminated.

Full consideration of all the equities present in the record do not justify, in my opinion, granting the application of Transport Company and Amador Central in full. To do so would

do great injury to Piccardo Brothers who have maintained truck service between Martell and Jackson since 1926 and, by acquisition last spring, similar service between Martell and Sutter Creek and Amador City as a part of their operation between Sacramento and Jackson. There is nothing in the record to show the inadequacy or inefficiency of their service. In 1926 they were applicants for authority to establish the very service now proposed by them and the co-applicants, and were restricted to service from the rail head at Martell, largely because of the protest of the rail carriers. In 1931 they joined with A.L. Schneider in a renewal of the offer and met similar protest and in addition that of John Smalley, protestant herein. The application was denied. The offer is renewed in their present application but I do not believe reasonable settlement of the transportation problem involved justifies preference of their offer. It is my conclusion, therefore, that Transport Company and Amador Central should receive the benefit of certificated authority only between Stockton and Martell, thus relieving the rail carriers, and permitting distribution to be made by Piccardo Brothers from the rail terminus.

I therefore find as a fact that public convenience and necessity require the establishment of service by auto truck for the transportation of freight between Stockton and Martell, but not to Jackson, Amador City or Sutter Creek, and recommend that a certificate therefor be granted to Pacific Motor Transport Company.

This recommendation is based on the fact that both applicants are corporations and it is impracticable to grant a certificate for their joint ownership. Co-applicants have a basis

for agreement, according to the testimony of Mr. Young, by which the operation may be conducted by grantee with a division of responsibility between Amador Central and grantee for support of the operation.

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.

I propose the following form of order:

O R D E R

Pacific Motor Transport Company, a corporation, and Amador Central Railroad Company, a corporation, having made application for a certificate of public convenience and necessity authorizing operation of motor truck freight transportation between Stockton and Martell, Sutter Creek, Amador City and Jackson, via Lockeford, Clements and Ione, and for a distance of one mile on either side of the road traversed between termini, a public hearing having been held and the matter being duly submitted for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment of such operations between Stockton and Martell, and not otherwise for the transportation of freight, via Lockeford, Clements and Ione and one mile on either side of the highway traversed, via Stockton-Jackson highway, and

IT IS HEREBY ORDERED that a certificate therefor be and the same hereby is granted to Pacific Motor Transport Company, a corporation, subject to the following conditions:

1. The foregoing order shall not become effective until grantee, Pacific Motor Transport Company, shall have filed with this Commission copy of any contract or agreements, if any, between grantee and Amador Central and/or any other carrier in connection with the service herein authorized.
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 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 insofar as they conform to the certificate herein granted.
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.

IT IS HEREBY FURTHER ORDERED THAT in all other respects Application No. 18010 be and the same hereby is denied.

Angelo Piccardo and Andrea Piccardo, copartners, operating under the name of Piccardo Brothers having made application to extend their operating right between Martell and Jackson from Martell to Stockton via Ione and Lockeford,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity do not require the extension of service as applied for, and,

IT IS HEREBY ORDERED that application No. 18061
be and the same hereby is denied.

The foregoing Opinion and Order are hereby approved
and ordered filed as the Opinion and Order of the Railroad
Commission of the State of California.

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 24th day of
October 1932.

C. C. Severy
Leon Whitely
W. A. Lee
M. D. Harris
Fred G. Stewart
COMMISSIONERS.