

Decision No. 25720.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
PACIFIC MOTOR TRANSPORT COMPANY for)
a certificate of public convenience)
and necessity for an extension of)
its operating rights held under De-)
cisions 22558, 25078 and 25370.)

Application No. 18758.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Pacific Motor Transport Company has made application for a certificate of public convenience and necessity to operate freight service between Los Gatos and Mayfield and between Monte Vista and San Jose as an enlargement and extension of the rights heretofore granted it by Decisions 22558, 25078 and 25370, on Application No. 16228, authorizing service between San Jose and Santa Cruz. Applicant requests authority to handle shipments consigned over the lines of Southern Pacific Company and Railway Express Agency, Inc. and proposes no public service between termini or intermediate points. The rates to be charged are the rates now on file by the two carriers named. A daily time schedule to Saratoga and Cupertino, with "on call" service to other points, is shown in Exhibit "A" attached to the application.

The application is based upon the fact that the Interstate Commerce Commission has authorized the Peninsular Railway Company to abandon its electric car operations on its Los Gatos-Mayfield branch on March 11, 1933, and that abandonment of such

service will leave the intermediate points heretofore served by this carrier in connection with the other carriers without any service. The Peninsular Railway is now handling the less than carload traffic of the Southern Pacific Company between the points proposed to be served by the Pacific Motor Transport Company. The Southern Pacific Company alleges that economically it cannot restore less than carload service.

This is a matter in which a public hearing does not appear necessary. The emergency presented justifies the granting of the application as made. An order therefor will be entered.

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.

ORDER

Pacific Motor Transport Company having made application to enlarge and extend its operating rights heretofore granted by Decisions Nos. 22558, 25078 and 25370, on Application No. 16228, and the Commission being fully advised in the premises,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment of automotive service for the transportation only of shipments in transit via the Southern Pacific Company and Railway Express Agency, Inc., between Mayfield and Los Gatos and serving the inter-

mediate points of Bulwer, Congress Junction, Saratoga, Cupertino, Monte Vista, Simla and Los Altos, provided, however, that applicant shall immediately file with this Commission its contracts with the Southern Pacific Company and Railway Express Agency, Inc., covering the service herein granted. The route to be followed is via the main highway serving termini and the intermediate points.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted, subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. 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 one day's notice to the Commission and the public, time schedules covering the service herein authorized, in a form satisfactory to the Railroad Commission.
3. 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.
4. 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.

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 10th day of March, 1933.

P. S. Sawyer
Leon C. Whiskey
M. J. Cunn
Commissioners.