

Decision No. 26917

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
PACIFIC MOTOR TRUCKING COMPANY, )  
for permission to issue shares of )  
its stock in payment for certain )  
operative rights of Pacific Motor )  
Transport Company; and application )  
of PACIFIC MOTOR TRANSPORT COMPANY )  
for authority to sell certain equip- )  
ment, franchises and operative )  
rights to Pacific Motor Trucking )  
Company and to acquire shares of )  
stock of said company. )

ORIGINAL

Application No. 18892

BY THE COMMISSION:

O P I N I O N

In this application the Railroad Commission is asked to make an order authorizing Pacific Motor Transport Company to transfer certain properties and operating rights to Pacific Motor Trucking Company and authorizing Pacific Motor Trucking Company to issue 140 shares of the common stock without nominal or par value at \$100.00 a share.

It appears that Pacific Motor Transport Company is engaged in operating an express business and an auto truck transportation business. Its auto truck operations are conducted in general between Stockton and Martell; Surf and Lompoc and White Hills; San Rafael and Point Reyes; San Jose, Watsonville Junction, Santa Cruz, Santa Clara, Campbell and Mayfield; Lone Pine and Bishop; and Los Angeles and the harbor district and intermediate points.

It appears that the company has decided to transfer its auto truck business to Pacific Motor Trucking Company, a new corporation. The physical properties to be transferred include 20 trucks,

2 tractors and 11 trailers. The operating rights under which such business is conducted were granted by Decision No. 25289, dated October 24, 1932, in Application No. 18010; Decisions Nos. 25745, dated March 20, 1933, and 25633, dated April 17, 1933, in Application No. 18752; Decision No. 25650, dated February 20, 1933, in Application No. 18651; Decisions Nos. 22558, dated June 21, 1930, 25078, dated August 22, 1932, 25370, dated November 21, 1932, and 25784, dated April 3, 1933, in Application No. 16228; Decision No. 25720, dated March 10, 1933, in Application No. 18758; Decisions Nos. 22183, dated March 6, 1930, and 23254, dated January 7, 1931, in Application No. 16323; Decision No. 23564, dated April 6, 1931, in Application No. 17236; and Decision No. 24856, dated June 13, 1932, in Application No. 17892.

In support of the request to issue 140 shares of stock in payment for these properties and rights, applicants filed as Exhibit "A" a statement showing the value thereof. An analysis shows that this statement includes the ledger value, the estimated depreciation accrued to March 31, 1933 and the depreciated value as of the latter date, as follows:

	Ledger Value	Depreciation to March 31, 1933	Depreciated Value
Trucks.....	\$29,282.62	\$22,901.79	\$ 6,380.83
Tractors.....	6,681.28	6,681.28	-
Trailers.....	7,641.52	6,888.14	753.38
Sub-total.....	43,605.42	36,471.21	7,134.21
Franchises.....	10,196.02	3,643.92	6,552.10
Pending Applications.....	150.00(1)	-	150.00
Total.....	<u>\$53,951.44</u>	<u>\$40,115.13</u>	<u>\$13,836.31</u>

(1) Filing Fee

The item of franchises stated in the foregoing tabulation at \$10,196.02 for the ledger value includes filing fees of \$350.00,

the sum of \$1,500.00 paid to California Transit Company as the purchase price for the operating rights between Lone Pine and Bishop and the sum of \$8,346.02 arising in connection with the purchase of the operating rights between Los Angeles and the Los Angeles Harbor District. This latter sum has been amortized from time to time resulting in a figure of \$4,702.10 as the value on March 31, 1933.

The Commission heretofore has held that in connection with orders authorizing the issue of securities it will permit the capitalization of only such amounts as were actually expended by the original holders of operating rights in obtaining them and that it has no authority to authorize the capitalization of purchase prices paid by subsequent holders. Neither in former proceedings before the Commission, nor in this one is there any showing made which would warrant the Commission in recognizing the sum of \$1,500.00 as the cost of the operating right between Lone Pine and Bishop or the sum of \$4,702.10 as the cost of the right between Los Angeles and Los Angeles Harbor District. In this order, therefore, we will not accept those two sums in determining the amount of stock to be issued and will permit at this time the issue of 77 shares of stock at a price of \$100.00 a share in payment for the physical properties and operating rights to be acquired by Pacific Motor Trucking Company. The request to issue the remainder of the 140 shares in payment for the items just referred to will be dismissed without prejudice. If applicant, Pacific Motor Trucking Company, will furnish us with data showing what sums were actually expended by the original grantee of the two operative rights, we will again consider its request to issue stock against such expenditures.

We wish to place Pacific Motor Trucking Company upon notice that operating 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 in the number of rights which may be given.

#### O R D E R

Application having been made to the Railroad Commission for an order authorizing the Pacific Motor Transport Company to transfer properties and Pacific Motor Trucking Company to issue 140 shares of stock, and the Commission having considered applicants' requests and being of the opinion that this is not a matter in which a public hearing is necessary, that the application should be granted only as herein provided, and that the money, property or labor to be procured or paid for through the issue of 77 shares of stock is reasonably required by Pacific Motor Trucking Company for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expense or to income, therefore,

IT IS HEREBY ORDERED, that Pacific Motor Transport Company be, and it hereby is, authorized to transfer to Pacific Motor Trucking Company the auto truck properties and operating rights referred to in the foregoing opinion.

IT IS HEREBY FURTHER ORDERED, that Pacific Motor Transport Company be, and it hereby is, authorized to issue, on or before August 31, 1933, not exceeding 77 shares of its common capital stock without nominal or par value at a price of \$100.00 a share in payment for the properties and rights herein authorized to be transferred.

IT IS HEREBY FURTHER ORDERED, that Pacific Motor Transport Company be, and it hereby is, authorized to acquire and hold the stock

which Pacific Motor Trucking Company is herein authorized to issue.

IT IS HEREBY FURTHER ORDERED, that the application, insofar as it involves the issue of 63 shares of capital stock, be, and it hereby is, dismissed without prejudice.

The authority herein granted is subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing, or any purpose other than the transfer herein authorized.

2. Applicant Pacific Motor Transport Company shall immediately unite with applicant Pacific Motor Trucking Company in common supplement to the tariffs on file with the Commission covering service given under certificate herein authorized to be transferred, applicant Pacific Motor Transport Company on the one hand withdrawing and applicant Pacific Motor Trucking Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.

3. Applicant Pacific Motor Transport Company shall immediately withdraw time schedules filed in its name with the Railroad Commission and applicant Pacific Motor Trucking Company shall immediately file, in duplicate, in its own name time schedules covering service heretofore given by applicant Pacific Motor Transport Company, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of applicant Pacific Motor Transport Company, or time schedules satisfactory to the Railroad Commission.

4. The rights and privileges herein authorized may not

be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.

5. No vehicle may be operated by applicant Pacific Motor Trucking Company 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.

6. Pacific Motor Trucking Company shall keep such record of the issue of the stock herein authorized as will enable it to file within thirty (30) days thereafter a verified report as required by the Railroad Commission's General Order No. 24, which order, insofar as applicable, is made a part of this order.

7. The authority herein granted will become effective twenty (20) days from the date hereof.

DATED at San Francisco, California, this 5<sup>th</sup> day of June, 1933.

Chas. J. ...  
Leon ...  
W. H. ...  
W. B. ...  
W. H. ...

Commissioners.