

Decision No. 26262.

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 to operate motor trucks) Application No. 18,727.
between Sacramento and Placerville,)
California and points intermediate)
thereto, for the transportation of)
rail traffic between railroad stations.)
-----)

ORIGINAL

E. J. Foulds, for applicant.
A. B. Roehl, Sanborn & Roel, Attorneys, for Folsom
Truck Line and El Dorado Motor Transportation
Co., Inc., Protestants.
Harry See, for Four R.R. Brotherhoods, Protestants.
Henry S. Lyon, District Attorney, El Dorado County,
for County of El Dorado and Diamond Springs
Lime Co., Protestants. (Also entering the
appearance of Mr. Pierson on behalf of Chamber
of Commerce of El Dorado Co.,) protestants.
Thomas Maul, City Attorney, Placerville, for the
City and the Placerville Chamber of Commerce,
Protestants.
W. G. Stone, for Sacramento Chamber of Commerce,
Protestant.

HARRIS, COMMISSIONER:

O P I N I O N

In this application the Pacific Motor Transport Company asks for a certificate of convenience and necessity to operate motor trucks upon public highways for the distribution of railroad traffic between the railroad stations at Sacramento, California and Placerville, California, and railroad stations intermediate thereto including service between the railroad stations Citrus and Fair Oaks, California, and an alternative route from Clarks-ville to Shingle Springs through Latrobe, and also an alternative route between El Dorado and Diamond Springs, such traffic to consist of freight and express shipments of the character now

handled by rail between railroad stations on such routes including the traffic moving to such railroad stations by rail from more distant points or vice versa; Sacramento to be the distributing and forwarding center for all such traffic.

The rates to be charged by applicant will be fixed by contract between applicant and Southern Pacific Company on a basis compensatory to applicant, copies of such contract to be filed with the Railroad Commission.

During the hearing Pacific Motor Trucking Company was substituted as applicant. The original applicant and substituted applicant are both subsidiaries of the Southern Pacific and are both California corporations. The Southern Pacific Company is a foreign corporation.

Several protestants appeared, two being certificated highway transportation companies operating in the territory proposed to be served by applicant. Two of protestants, the City of Placerville and County of El Dorado during the course of the hearing withdrew their protests.

Protestants' main contentions are that this Commission has no jurisdiction to grant the application and that public convenience and necessity do not require the service proposed by applicant.

The question of jurisdiction was considered in Application No. 13699, Decision No. 26251, handed down August 21, 1933, the decision being that the Commission has jurisdiction. The conclusion in that case is determinative in this.

The facts in this case closely resemble those in the case just referred to in which the Commission found public convenience and necessity to exist and the discussion relative to public convenience and necessity in that case is referred to. A further discussion of that subject is however, desirable.

There is now a tri-weekly train service covering the points involved. A daily truck service for less than carload freight is proposed in addition to the trains which will continue carload service. This will afford the public an over night service every day except Sunday between the San Francisco Bay region and Sacramento and points on the Placerville branch. Shippers will also have the advantage of a morning arrival rather than late in the afternoon as at present.

The cost of operating applicant's service will be about \$464.00 a month, while the Southern Pacific Company will save about \$327.00 a month in operating expenses. Profitable operation by applicant is assured by its contract with Southern Pacific Company, which will fix its compensation at cost plus 10%.

The l.c.l. and express traffic on the Placerville branch is now about 6.5 tons a day inbound and 1.7 tons a day outbound and has not the volume to justify daily train service.

The only way the improved service can be brought about is by the proposed truck service at the slightly increased cost above indicated.

There is a real public need for more rapid and frequent transportation than the patrons of the Southern Pacific now enjoy at the points covered by this application.

Testimony to this effect was given by E. G. Wilcox, representing the Oakland and Berkeley Chambers of Commerce as well as shippers in neighboring East Bay Cities by the testimony of local shippers or receivers of freight at Placerville and by Mr. Hal Remington, Manager of the Transportation Department of the San Francisco Chamber of Commerce who testified that "the proposed service will be of advantage to San Francisco shippers in that it will enable them to deal with one transportation company and afford better dispatch and a more satisfactory service on their shipments from San Francisco to destinations

contemplated in the application."

The application will be granted.

Applicant should file in full with the Commission the rates to be charged and the schedules of operation as set forth in the exhibit filed with this application.

Pacific Motor Trucking 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.

O R D E R

A public hearing having been held upon the above entitled application, the matter submitted and now being ready for decision:

The Railroad Commission of the State of California hereby finds public convenience and necessity require the operation by Pacific Motor Trucking Company of an automobile truck service between the railroad stations located on the Placerville branch of the Southern Pacific Company and over the routes as set forth in Exhibit "B" attached to the application herein for the transportation of freight, such service to be limited to the transportation of such freight as may have been previously consigned for transportation over the line of the Southern Pacific Company and which may be delivered to the applicant by the Southern Pacific Company or the Pacific Motor Transport Company, or the Railway Express Agency, Inc., at the railroad freight

stations designated below and to be redelivered by the applicant at another of said freight stations, to-wit, at the freight stations of the Southern Pacific Company located at Sacramento, Homestead, Brighton, Perkins, Manlove, Mayhew, Routier, Mills, Mather, Citrus, Fair Oaks, Nimbus, Alder Creek, Natoma, Folsom, White Rock, Latrobe, Dugan, Shingle Springs, El Dorado, Diamond Springs, and Placerville.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be and the same hereby is granted to Pacific Motor Trucking Company subject to the following conditions:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.

2. Applicant shall file in duplicate within a period of not to exceed twenty (20) days from date hereof copies of the contract between applicant and Southern Pacific Company relating to the operation herein directed to be certificated and, in triplicate, the rates to be charged, and, in duplicate, time schedules, said rates and time schedules to be satisfactory to the Railroad Commission. Applicant shall commence operation of said service within a period of not to exceed sixty (60) days from date hereof.

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 days from the date hereof.

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.

Dated at San Francisco, California, this 21st day of August, 1933.

CC. Lamm
L. M. Ladd
M. J. C.
M. B. Harris
Commissioners.