

ORIGINAL

Decision No. 26468.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of
PACIFIC MOTOR TRUCKING COMPANY
for certificate of public con-
venience and necessity for the
transportation of property by
motor trucks under contract for
certain common carriers between
Santa Barbara and Gaviota and
stations intermediate thereto.

Application No. 18863.

A. A. Jones, for applicant.

Eugh Gordon and Wallace K. Downey, for Motor Freight
Terminal Company, protestant.

Eugh Gordon, for Valley and Coast Transit Company,
protestant.

Korris Montgomery, for McMurray Transportation Serv-
ice, Ltd., protestant.

Harry See, for the Railroad Brotherhoods.

BY THE COMMISSION:

O P I N I O N

Applicant herein seeks a certificate of public conven-
ience and necessity for the transportation of property by auto
trucks between Santa Barbara and Gaviota and between Santa Bar-
bara and Montecito, the tonnage to consist entirely of freight and
express originated by the Southern Pacific Company, Railway Express
Agency and the Pacific Motor Transport Company. The compensation
of applicant will be secured through contracts executed with these
three common carrier organizations and no services will be offered

or given direct to the general public. Tariffs will not be issued, and shippers will deal only with the representatives of the Southern Pacific Company, Railway Express Agency, and Pacific Motor Transport Company under their tariffs now on file with this Commission.

Public hearing was conducted at Santa Barbara June 22, 1933, by Examiner Geary, and the matter submitted.

The proposed time schedules and routes are as set forth in Exhibits "A" and "B" attached to the application, and the initial offer is for one round-trip daily except Sundays, with equipment consisting of pneumatic-tired trucks or trucks and trailers.

The Southern Pacific Company now operates local freight trains in the territory three times a week, performing both carload and the less than carload service. The less carload totals 13 tons per month received and 5 tons per month forwarded. The deliveries at Montecito are now most unsatisfactory due to the fact that although this community is less than two miles from Santa Barbara the delivery trucks of the Pacific Motor Transport Company, because of its certificated rights, must make the pick-up at Montecito instead of Santa Barbara. It is proposed to discontinue the present tri-weekly local trains and handle the carload traffic on through trains, allowing the trucks to transport the less carload freight on a daily schedule. This elimination of trains and substitution of the trucks would result in a saving to the Southern Pacific Company of approximately \$10,000 per annum and would give to the shipping public an expedited and much needed daily through service for all traffic originated by the three companies. Applicant was supported by the testimony of a large number of witnesses and the Commission received many written communications endorsing

the proposed substitution of trucks for the trains. The desire of the shipping public is for a completed through service under control of the rail lines, especially in connection with long distance and eastern tonnage.

The application was opposed by the three certificated truck lines maintaining service in the territory, by several shipper witnesses using the truck line, and by the Brotherhood of Railroad Trainmen. The latter organization presented no testimony. The establishment of the proposed truck operations will not be an additional service but will permit the Southern Pacific Company, the actual party in interest, to perform a superior transportation service at a great financial saving and will meet a real public need. The application will therefore be granted.

Protestants made a motion to dismiss the application upon the grounds that the Commission has no jurisdiction by reason of the fact that applicant would publish no tariffs and would not render service direct to the shipping public. The question of the Commission's jurisdiction over a similar service was considered by the Commission in Application No. 18699, (Decision No. 26261, dated August 21, 1933), the Commission holding that it had jurisdiction. The motion to dismiss is denied.

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

ORDER

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 AND DECLARES that public convenience and necessity require the operation by Pacific Motor Trucking Company of an automobile truck service between the railroad stations located on the Southern Pacific Company between Santa Barbara and Caviota and Santa Barbara and Montecito, 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 Montecito, Santa Barbara, Coleta, Naples and Caviota.

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.

Dated at San Francisco, California, this 23rd day of October, 1933.

Cl Sealey

M. A. C.

W. B. ...

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Commissioners.