

Decision No. 26600.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of PACIFIC MOTOR TRANSPORT COMPANY,
a corporation, for a certificate of
public convenience and necessity
authorizing the continuing in effect
of rates and service to and from all
points served by Motor Transit
Company in San Bernardino County,
A.M.Akins, S.B.Herrick Co., and
Fredericksen & Sons in Lake County,
Tahoe Transportation Company and
Covelo Stage Line.

Application No. 19177.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Applicant is an express corporation¹ engaged in transporting property over the lines of various common carriers in this State. By application filed November 7, 1933, it seeks a certificate of public convenience and necessity authorizing the continuation of the express operations it commenced subsequent to May 1, 1933, and prior to the effective date of Section 50(f) of the Public Utilities Act (Chapter 784, Statutes of 1933).

Section 50(f) of the Act reads in part as follows:

"No express corporation or freight forwarder shall after August 1, 1933, commence operating between points in this State or extend its operations to or from any point or points in this State not theretofore served by it, unless and until it shall

¹ Section 2(k) of the Public Utilities Act reads:

"The term 'express corporation', when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise or other property for compensation on the line of any common carrier or stage or auto stage line within this State."

first secure from the Railroad Commission, upon formal application therefor, a certificate that public convenience and necessity require such operation. Any express corporation or freight forwarder having between May 1, 1933, and the effective date of this act, commenced operations or extended its service as aforesaid, shall have ninety (90) days after the effective date of this act to file with the Railroad Commission a formal application for a certificate of public convenience and necessity for such service. The Railroad Commission shall have power, with or without hearing, to issue such certificate, or to refuse to issue the same, or to issue it for the partial exercise only of the privilege sought, and may attach to its order granting such certificate such terms and conditions as, in its judgment, the public convenience and necessity require."

On May 1, 1933, applicant was engaged in the transportation of property between the points shown in its lawfully filed tariffs. On June 28, 1933, effective July 1, 1933, it filed its Local Express Tariffs Nos. 16 and 17, C.R.C. Nos. 19 and 20, adding to the points theretofore served all points on the lines of A. M. Akins, S. B. Herrick Company, Fredericksen & Sons and Tahoe Transportation Company. On August 9, 1933, effective August 11, 1933, it filed page 43-C to its Local Express Tariff No. 9, C.R.C. No. 13, adding to the points named in that tariff numerous points in San Bernardino County on the line of the Motor Transit Company.

Applicant alleges that it handles shipments to and from all these points over the lines of the Southern Pacific Company and connecting highway carriers and that shippers desire that a reliable and regulated through rail and truck service be made available. It seeks a certificate of public convenience and necessity authorizing it to continue in effect the service herein referred to, which it has established since May 1, 1933.

It appears that this is a matter in which a public hearing is not necessary, and that the certificate prayed for should be granted.

Applicant 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 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

An application having been filed with the Commission, and it being fully advised,

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to applicant Pacific Motor Transport Company authorizing it to continue the express operations referred to in the opinion which precedes this order, commenced since May 1, 1933, and prior to the effective date of Section 50(f) of the Public Utilities Act, 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 the date hereof.
2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred or assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

Dated at San Francisco, California, this 4th day of December, 1933.

C. J. ...
W. H. ...
M. B. ...
...
Commissioners.