

Decision No. 27294

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
PACIFIC MOTOR TRUCKING COMPANY for
a certificate of public convenience
and necessity for the transportation
of property by motor truck in the
custody of certain common carriers
between Dunsmuir and Montague and
intermediate points in Siskiyou County,
together with the right to operate
as agent for Express Companies in-
volved in the store-door pick-up and
delivery service at such points under
their present or future tariffs.

Application No. 19267.

ORIGINAL

A. A. Jones and E. J. Foulds, by A. A. Jones for
applicant.

Douglas Brookman for protestant J. A. Gritsch, doing business as Oregon Fast Freight.

BY THE COMMISSION:

O P I N I O N

The Pacific Motor Trucking Company, hereinafter referred to as the applicant, a California corporation and a subsidiary of the Southern Pacific Company, requests authority under Section 5 of the Auto Truck Transportation Act for a certificate of public convenience and necessity to operate trucks between all railroad stations of the Southern Pacific Company located between Dunsmuir and Montague, together with the right to furnish a pick up and delivery as agent for the express companies where such services are provided in their tariffs. The trucks will be devoted exclusively to the transportation of less-carload freight and express shipments in the custody of the Southern Pacific Company. Applicant will function only as a transportation unit of the Southern Pacific and the express companies under the terms of a standard contract and no tariff will be published.

A public hearing was held before Examiner Geary at

Dunsmuir March 15, 1934, and the proceeding having been duly briefed and submitted, is now ready for our opinion and order.

The territory of Dunsmuir to Montague covers a distance of 50 miles and includes 12 stations, the important communities being Mt. Shasta, Weed, Edgewood and Gazelle, with populations according to the last census of 1910, 750, 250 and 100 respectively; also Mt. Shasta, Weed and Gazelle are important junction stations for the distribution of heavy tonnage to and from inland territories. A check over a one month period of less carload freight at the principal stations in this district shows 198 consignees and 26 consignors; a total of 846 shipments received and 69 shipments forwarded and an average of 7.6 tons per day. The average during the busy shipping period is 9 tons per day. Under the present freight train schedules, the approximate time from both San Francisco and Oakland is 38 hours. The proposed truck schedules would affect first morning deliveries at Granada, the northernmost town to be served, in 16 hours and 15 minutes from San Francisco, and 15 hours and 15 minutes from Oakland. The terminal points of Dunsmuir and Montague now have the expedited package service accomplished by transporting freight in Southern Pacific passenger train No. 8, leaving San Francisco at 7:20 p.m. and arriving at Dunsmuir at 7:25 a.m. The important communities north of Dunsmuir, although but an insignificant distance from these terminals, suffer greatly by reason of the connecting schedules and the slow freight trains out of Dunsmuir. Applicant's plan provides for the transferring of the shipments at Dunsmuir immediately upon arrival of train No. 8 with the trucks leaving the terminals at 6:00 a.m. and reaching Montague at 9:30 a.m. Supporting testimony was presented by many shipping witnesses, the more important being business men engaged at Weed, Mt. Shasta, Granada and Gazelle. Their testimony showed that these communities are greatly handicapped by reason of the present train schedules

and they were emphatic and unanimous in their desire to have the applicant's trucks put into service. Perishable commodities, because of the element of time, cannot be delivered in satisfactory condition and the shippers often find it necessary to use contract or wildcat trucks.

D. M. Swobe, Manager of the McCloud River Railroad, showed by his testimony that perishable freight now moves but once a week and that his Company is compelled to use a refrigerator car between Mt. Shasta and stations on the McCloud River Railroad, that the car must be returned empty involving a substantial and needless expense to the short line railroad.

The Southern Pacific freight trains now perform the insufficient and unsatisfactory services and if they were scheduled to give the completed service would incur an annual expense of \$20,271. per year, or approximately \$1,700. per month. Applicant's trucks can perform the same service on a daily except Monday and holiday schedule, at an out-of-pocket cost of \$380. per month.

J. A. Gritsch, operating an interstate trucking line between Oregon and California and who now has before this Commission Application No. 19044 for a certificate of public convenience and necessity to perform a local trucking service between San Francisco and East Bay points on the one hand, and points in northern California on the other, including Montague and intermediate points, protested this application upon the assumption that, having filed his petition August 11, 1933, while the instant proceeding was not instituted until January 19, 1934, he should be given prior consideration and no action taken on the instant application until after the issues have been finally decided in his application No. 19044.

Protestant also offered to do the local hauling between Dunsmuir and Montague for the Southern Pacific Company if and when it received authority to legally conduct a local service in

California. We failed to find in either the testimony or the brief any controlling reason for these demands. The record in this proceeding clearly demonstrated that the railroad less carload freight and the express tonnage destined to the territory between Dunsmuir and Montague is not receiving the expedited transportation which the present day business methods make necessary.

The applicant does not propose to serve any stations which the Railroad has not been serving and it is obvious that a failure to grant this application would divert much of the tonnage to the railroad's competitor - either to the shipper owned trucks, the contract haulers or the wildcat operators. There are now no certificated trucks between the points to be served.

The Southern Pacific Company and its rail connections assemble freight and express between points in California and the United States and this through tonnage, as well as the local freight, is entitled to prompt and safe transportation. The alternative use of trucks and freight trains will meet this requirement, which the freight trains cannot accomplish because it is economically unsound to attempt to perform a necessary service by standard full crew freight trains for the limited less carload tonnage now being offered.

Section 13 (b) of the Public Utilities Act provides that the utility shall furnish, provide and maintain such service, instrumentalities, equipment and facilities as shall be in all respects, adequate, efficient, just and reasonable.

The application will be granted.

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 being duly submitted and now being ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY FINDS 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 main line of the Southern Pacific Company between Dunsmuir and Montague, together with the right to furnish a pick up and delivery service, as agent for the express companies where such services are provided in express tariffs, 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.

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 fifteen (15) days from date hereof.
2. Applicant shall file, in duplicate, within a period of not to exceed twenty 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 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 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 (20) days from the date hereof.

Dated at San Francisco, California, this 27th day of August, 1934.

Leon A. White

~~Leon A. White~~

W. J. Carr

W. B. Harris

Nathaniel M. ...

Commissioners.