

Decision No. 27242

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of MOTOR SERVICE EXPRESS, a corporation,
for a certificate of public convenience
and necessity extending its service from
Beaumont to Oasis and intermediate
points.

} Application
No.18480

H. J. Bischoff, for applicant.
R. E. Wedekind, for Southern Pacific Company,
Pacific Electric Railway Company, and
Pacific Motor Transport Company, protestants.
Edward Stern, for Railway Express Agency, Inc., as
their interest may appear.
E. T. Lucey, for The Atchison, Topeka & Santa Fe
Railway Company, interested party.
Elmer Ahl, for Keystone Express System, interested
party.
W. K. Downey, for Motor Freight Terminal Company,
interested party.
Phil Jacobson, for Rex Transfer, interested party.
Chas. A. Bland, for Board of Harbor Commissioners,
of the City of Long Beach, interested party.

BY THE COMMISSION -

O P I N I O N

Applicant seeks herein enlargement of its operative rights to (a) serve laterally from its route between Beaumont and Oasis to a distance of ten (10) miles, and (b) to use, west of San Bernardino and Riverside, three alternate routes to Los Angeles, Long Beach and Los Angeles harbor.

A public hearing thereon was conducted by Examiner Handford at Los Angeles, December 6, 1933, at which time the matter was submitted for decision.

Since the filing of the instant application Motor Service Express has sold, with approval of this Commission, to Coast Truck Line, which has changed its name to Southern California Freight

¹
Decision No.26138, dated July 10, 1933, on Application No.18977.

Line, which, as the successor in interest of applicant, will be substituted as party applicant.

By the testimony of seventeen witnesses applicant has shown a need on the part of shippers, both from Los Angeles to points between Beaumont and Mecca, at least, for general merchandise and machinery, and from such points to Los Angeles and its area, as served by applicant, for products of agriculture and horticulture. This testimony is affirmative of all that applicant seeks, which is tersely the right to serve consignees and shippers not more than ten miles on either side of the highway it now operates over in the Coachella valley at rates 10 cents per 100 pounds higher than its present rates, and 25 percent higher for commodity rates, for the off-route service proposed. Shippers did not question these rates.

A part of the lateral service to be rendered is to camps established by the Metropolitan Water District of Los Angeles for the construction of its water system through the San Jacinto mountains. These camps are on private roads to which the public is excluded, but over which, in the past, applicant has been suffered to operate making deliveries to camps and contractors. The District has a main distribution depot at Banning and a divisional one at Indio. For the bulk of its distribution it has 18 trucks devoted to such transportation. Applicant has performed service to and from both distribution points and, according to O. T. Helpling, Traffic Manager, of the District, quite satisfactorily. He explained, however, that the District highways were built only for the work being prosecuted and their life is calculated only to the end of the construction period - some time in 1938. For that reason promiscuous use is forbidden and no permits are issued. The work is employing some 3000 men and they are distributed from Garnet, at the east portal of the San Jacinto tunnel, to

Parker and Blythe. It appears that if applicant wishes to use these private roads it must be by leave of the District.

But these roads are only a small part of those in the lateral zone applicant seeks. There are abundant public roads reaching the ranchers and others who are both shippers and receivers. Because of this, there is no impediment to granting a certificate, as protestants urge, as sought, as no private road is or can be included. There appear abundant reasons to grant the certificate and an order accordingly will be entered.

The rerouting sought by applicant is a mere operating convenience and involves no enlargement of its operating rights west of either San Bernardino and Riverside. It will be granted.

Southern California Freight Lines, a corporation, successor to Motor Service Express, a corporation, 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

Southern California Freight Lines, a corporation, successor to Motor Service Express, a corporation, and substituted therefor, having made application for a certificate to establish service ten miles on either side of the highway between Beaumont and Oasis and to use alternate routings between San Bernardino, Riverside

and Los Angeles, Long Beach and Los Angeles, etc., a public hearing having been held and the matter having been duly submitted for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment of automotive truck service for the transportation of property between Beaumont and Mecca, laterally for a distance of ten (10) miles on either side of the highway traversed by authority of Decision No.26138, on Application No.18977, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted, 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 triplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than ten days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application insofar as they conform to the certificate herein granted.
3. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.
4. 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.
5. 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.

IT IS HEREBY FURTHER ORDERED that applicant be and it hereby is authorized to route its trucks in the performance of its public service as a common carrier of property between San Bernardino and Riverside over either or all of the following routes:

Foothill Boulevard, via Rialto, Upland and Azusa,
to Los Angeles and Los Angeles Harbor and Long Beach;

Valley Boulevard via Ontario, Pomona and El Monte
to Los Angeles, Los Angeles harbor and Long Beach.

Santa Ana Canyon Road, via Corona, Olive, Anaheim
and/or Orange and Santa Ana to Long Beach and Los
Angeles harbor points,

provided, that such rerouting only permits service at points for
which applicant heretofore received proper authority to serve.

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 11th day of
September, 1934.

Leon Owens

M. A. P. Co.

W. B. Harris

Robert A. ...

COMMISSIONERS.