

Decision No. 27884

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of Application of  
PACIFIC MOTOR TRUCKING COMPANY  
for certificate of public convenience and necessity for the transportation of property for rail and express companies by motor truck between Esparto, Davis, Dixon, Vacaville and intermediate points, and to consolidate said operations with those conducted by applicant between Esparto and Rumsey under Decision No. 26845, Application No. 18982.

ORIGINAL

Application No. 19669.

In the Matter of the Application of  
SOUTHERN PACIFIC COMPANY; First, to discontinue the operations of trains Nos. 446 and 447 operating between Elmira and Esparto; and Second, to maintain that portion of its so-called Capay Branch between Elmira and Esparto, under less than full operation as defined by Section 468 of the California Civil Code.

Application No. 19699.

- A. A. Jones, E. J. Foulds and R. S. Myers, for applicants in both proceedings.
- J. E. Monro, for Sacramento Motor Transport, interested party.
- C. C. McDonald, for Western Yolo Chamber of Commerce, Board of Supervisors of Yolo County, and Mr. Nieman, representing Winters Dried Fruit Company and Cache Creek Gap Gravel Company and Winters-Esparto Shipping Centers.
- W. O. Warner, for Sacramento Auto Truck Company, Protestant.

BY THE COMMISSION:

OPINION

Pacific Motor Trucking Company filed Application No. 19669 for a certificate of public convenience and necessity to operate motor truck services for the transportation of property between Fairfield, Davis, Dixon, Elmira, Vacaville, Winters, Esparto, the alternate route between Davis and Winters, and points intermediate thereto, as per Exhibit B, and to handle only traffic in the custody of the Southern Pacific Company, the Pacific Motor Transport Company, the

Railway Express Agency, Inc., and any and all carriers of the same class operating or which may hereafter operate in the territory affected. This applicant also seeks authority to consolidate the proposed operations with the operations now being conducted between Esparto and Rumsey by authority of Decision No. 26845 in Application No. 18982.

Southern Pacific Company filed Application No. 19699 requesting permission to discontinue the operations of passenger trains Nos. 446 and 447 between Elmira and Esparto over the Capay Branch. These trains also carry mail, express and less car load freight.

It was agreed that both applications be consolidated for the taking of testimony and the decision.

Public hearing was held by Examiner Geary December 17, 1934, at San Francisco, and the matter having been duly submitted is now ready for a decision and order.

The purpose of the first mentioned application (No. 19669) is to inaugurate by trucks on this branch between Elmira and Rumsey a more flexible, faster and better transportation service to the traffic in the custody and under the tariffs of the Southern Pacific Company, Pacific Motor Transport Company and Railway Express Agency, Inc. Applicant also desires permission to perform on behalf of the rail and express companies the store door pick-up and delivery services at the various rail points involved where such service is provided in tariffs of the companies whose tonnage will be handled. Otherwise stated, the petitioner will act only as a hauling unit for operating companies.

Applicant has had a demand from the post office department for a better mail movement between Fairfield and Rumsey and also complaints to the effect that the present tri-weekly truck trips between Esparto and Rumsey, now operated under certificate (Application No. 18982, supra) does not meet the requirements of the

milk and cream shippers nor the less car load freight. The same complaints exist as to the other sections of the branch. The proposed schedules will render a service daily except Sunday. The record conclusively shows that satisfactory railroad trains cannot be maintained with the meager number of passengers and the tonnage now being offered. The proposed trucks to operate over the highways from Fairfield to Esparto and there connect with applicant's present truck operations from Esparto to Rumsey will meet the public requirements for express and less car load freight. The change will also create substantial reductions in the train costs to the Southern Pacific Company, hereinafter referred to.

There was no opposition to the applicant although a number of interested parties attended the hearing and cross-examined the witnesses.

We are of the opinion that the application has been justified and it will therefore 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.

Referring now to Application No. 19699, permission is sought to First, discontinue trains Nos. 446 and 447 operating between Elmira and Esparto and Second, to maintain that portion of the Capay Branch, between Elmira and Esparto, under less than full operation as defined by Sec. 468 of the California Civil Code. These trains are run daily except Sunday for passengers, mail, express and less car load freight. Exhibit No. 1 shows that the two trains travel a total of 25,666 miles per annum at a cost of

\$24,139.00 and that other connecting trains and services necessary to complete the schedules between Sacramento and Elmira add \$20,283.00, making a total of \$44,422.00. The cost for performing the essential freight trains between Sacramento and Esparto to handle car load tonnage after the discontinuance of trains Nos. 446 and 447 will be \$17,337.00, a saving of \$27,085.00 in railroad costs. The substitute motor trucks for mail, express and less car load freight can be operated at an estimated cost of \$5,962.00 between the stations involved (Application No. 19669), thus affecting a total saving of \$21,113.00 per annum. Owing to the use of private automobiles and common carrier stage lines the railroad trains receive practically no passengers. During the four months January, April, July and October, 1934, there was an average of but 18 passengers per month and an average revenue of \$24.11. During 19 days of November, 1934, there was a total of 5 passengers on train No. 446 and 3 passengers on Train No. 447, with a total revenue of \$3.03. These surveys clearly demonstrate that the traveling public has no present day use for these passenger trains. All mail, express and less car load freight can be handled on the trucks of the Pacific Motor Trucking Company (Application No. 19669). Applicant will continue to operate the necessary freight trains to accommodate the public demands for the carload tonnage.

Upon consideration of this record we find that this application (No. 19699) has been justified and an order will be entered authorizing the applicant to discontinue the operations of passenger trains Nos. 446 and 447 between Elmira and Esparto and to maintain that portion of its Capay branch between Elmira and Esparto under less than full operations as defined in Section 468 of the California Civil Code.

#### 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 line of the Southern Pacific Company between Fairfield, Davis, Dixon, Vacaville, Winters, Esparto, the alternate route between Davis and Winters, and points intermediate thereto, as per Exhibit B, 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 property 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.

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.

IT IS HEREBY FURTHER ORDERED that applicant is authorized to consolidate these rights with the operations now being conducted

between Esparto and Rumsey by authority of Decision No. 26845, Application No. 18982, dated March 5, 1934.

IT IS HEREBY FURTHER ORDERED that permission and authority be and are hereby granted to the Southern Pacific Company to discontinue the operation of its passenger trains Nos. 446 and 447 between Elmira and Esparto and thereafter to maintain that portion of its Capay branch between Elmira and Esparto under less than full operations as defined in Section 468 of the California Civil Code.

IT IS HEREBY FURTHER ORDERED that the Southern Pacific Company shall continue to furnish the necessary freight trains for the carload tonnage.

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 14<sup>th</sup> day of January, 1935.

Leon A. White  
W. J. L.  
M. B. Harris  
W. H. H.  
Frank R. H.

Commissioners.