

ORIGINAL

Decision No. 27752

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of THE RIVER LINES, (The California Transportation Company, Sacramento Navigation Company, and Fay Transportation Company) for a certificate of public convenience and necessity authorizing the transportation of freight by auto truck on the public highways; (1st) between (a) Sacramento and (b) Knights Landing, Tyndall Mound, Grimes, Sycamore, Meridian, Colusa, Princeton, Butte City, Sidd's Landing, Jacinto, Monroeville, and Chico Landing, (2nd) between Knights Landing, Tyndall Mound, Grimes, Sycamore, Meridian, Colusa, Princeton, Butte City, Sidd's Landing, (3rd) between (a) Sacramento and (b) State Ranch Bend, Kirksville, Cole's Landing and Eddy's Ferry, and (4) between Knights Landing, State Ranch Bend, Kirksville, Cole's Landing, and Eddy's Ferry.

Application No. 19088.

McCutchen, Olney, Mannon & Greene, by John O. Moran, for Applicants.

L. N. Bradshaw, for Sacramento Northern Railway, Protestant.

Roy G. Eillebrand, for Southern Pacific Company and Pacific Motor Transport Company, Protestants.

BY THE COMMISSION:

OPINION and ORDER on REHEARING

By our Decision No. 26994 herein, dated April 30, 1934, applicant, The River Lines, was granted a certificate of public convenience and necessity authorizing the use of automotive trucks along parallel and connecting highways, between Sacramento and Chico Landing, as an alternate service to the Sacramento steamer and barge service of applicant. Thereafter, Sacramento Northern Railway filed its petition for rehearing, alleging that no vessels operate north of Sidd's Landing and that, therefore, the certificate authorized a new service not included in the application and not supported by the record. In addition, it

was alleged that this field is now adequately served by existing carriers.

A rehearing was ordered and was conducted by Examiner Williams, January 24, 1935, at San Francisco. At this hearing Southern Pacific Company appeared and intervened in support of Sacramento Northern's protest. The matter was duly submitted and now is ready for decision.

Two questions present themselves, (a) is the truck operation north of Sidd's Landing alternate to "the existing docks, wharves or warehouses where freight is now received or delivered by applicant's vessels," and, if not, (b) do public convenience and necessity require its establishment independently of contiguity or relation to the water carrier rights of applicant.

Applicant's member serving north of Sacramento is Sacramento Navigation Company which (and its predecessors) has conducted river transportation on the Sacramento river for several decades. It has, however, conducted no service by water between Sidd's Landing and Chico Landing and intermediate points for 17 years. This was admitted by applicant at the outset of the hearing and there is no contention that it has served the points in any manner in that period. Its warehouse at Monroeville does not now exist, many of its facilities have disappeared and its tributary area about Chico Landing long has used other carriers in the shipment of grain and rice, particularly when stored at the Phelan warehouse at Chico Landing. Applicant contends that it is, and has been, prevented from rendering this service by reason of the low water volume above Sidd's Landing for the past 17 years, but that such service will be resumed. In prospect of such resumption is presented evidence of the probable construc-

tion of the Central Valleys Water project calculated to maintain at least five feet of water at Chico Landing and ample for barge transportation purposes. Petitioners contend that the suspense of operations is or may be a forfeiture of operating rights.

We do not believe it necessary to determine or further discuss such questions. The truck operating right heretofore granted and questioned herein is based upon points "now served" by The River Lines. Certainly, points north of Sidd's Landing are not "now served" and the certificate heretofore granted is not alternative to points or facilities where freight is now "received or delivered by applicants." This, of itself, justifies modification of the order granting the certificate, unless public necessity and convenience require a new and separate service.

In support of this last phase applicant presented several witnesses. Thomas B. Stevenson, grain shipper, testified he would use the service. He prefers to receive grain at San Francisco because of the ability to discharge cargoes, assembled at many points, at one dock and because the water rate is cheaper than rail or truck. Except for the difference in rates, rail service had been adequate and expeditious. Trucks do not permit milling in transit. Agnes C. Livingston, Manager of Strauss Company, San Francisco and London, gave similar testimony. F. A. Bushee, Ordbend, operating 330 acres of deciduous fruit orchards, testified he would use applicant's service in preference to contract truck service, believing it more responsible. His shipments are governed largely by rates on dried fruits, and it was admitted that applicant has no commodity rate on dried fruits. Rail service he deemed inconvenient in getting cars spotted which entails delays of two or three days. S. S. Cody, operating a warehouse at Ordbend, ships according to instructions of owners

or purchasers of commodities. No witness (except one) indicated either lack of adequacy or expedition by any carrier.

The area north of Sidd's Landing is served on the west of the river by Southern Pacific bi-weekly freight service via Colusa. On the east side, Sacramento Northern and Southern Pacific give service via Marysville. All are considerably reduced in volume and frequency due to the use of so-called "contract" trucks. Each frankly fears the establishment by applicant at Chico Landing of a new competing carrier at lower rate levels for less carload freight and a probable diversion of Chico traffic from their rails to applicant thereby. This fear was not allayed by the testimony of J. C. Stone, Traffic Manager of applicant, who said while applicant was not reaching for such traffic at this time, future rate structures might require such a course.

Full consideration of the record does not appear to require the service of another truck carrier north of Sidd's Landing. The certificate now possessed by applicant will give dual water and land facilities to Sidd's Landing. As it has now, and has had, no water service north of this point for 17 years, extension of truck facilities will be unjustified on the ground of either economical operation of boat service, protection of carrier traffic or meeting a requirement of public necessity and convenience, independently.

Accordingly, the order in Decision No. 26594 will be altered and amended to eliminate all points north of Sidd's Landing.

O R D E R

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY
DECLARES that public convenience and necessity require the

establishment and operation by The River Lines of auto truck service for the transportation of freight between Sacramento and Sidd's Landing and the intermediate points as follows:

- 1st - Between (a) Sacramento and (b) Knights Landing, Tyndall Mound, Grimes, Sycamore, Meridian, Colusa, Princeton, Butte City and Sidd's Landing; and
- 2nd - Between Sacramento and State Ranch Bend, Kirksville, Cole's Landing and Eddy's Ferry; and
- 3rd - Between Knights Landing and Sidd's Landing and intermediate points and between Knights Landing and Eddy's Ferry and intermediate points;

provided said truck service is to be alternate to the vessel and barge service of applicant on the Sacramento river between Sacramento and Sidd's Landing, inclusive, and all points now served by vessel or barge and as herein set out, and said service may transport only such freight as is consigned to applicant under its rates and rules and regulations as a water carrier, said service to be "on call" and subject to the following restrictions:

1- No local service is to be rendered between Sacramento and Knights Landing, nor between Colusa and Princeton, inclusive; nor between Knights Landing and Eddy's Ferry, unless there shall have been tendered applicant at least ten thousand (10,000) pounds of freight; no service is to be conducted under the authority herein granted except to and from and between the existing docks, wharves or warehouses where freight is now received or delivered by applicant's vessels; and over and along the following route:

Between Sacramento and Knights Landing, via Davis and Woodland, or via Elkhorn Ferry; between Knights Landing and Grimes, via highways parallel with the Sacramento river, or either side thereof; between Grimes and Sidd's

Landing via highway immediately west of the Sacramento river with diversions therefrom to serve Meridian and Butte City; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and the same hereby is granted to The River Lines, subject to the following conditions:

1. Applicants shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. The rates to be charged for combined water and truck, or by truck solely, service shall in no case exceed the rates contemporaneously applicable for the transportation of freight between the same points over applicant's service by water and applicant shall file its tariff therefor, adopting such rates not in excess of its water tariff.
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 in all other respects except as herein specifically provided, the application is denied.

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 18th day of February, 1935.

Leon O'Connell
M. J. Lewis
M. B. Lewis
W. J. Lewis
W. J. Lewis
COMMISSIONERS.