

Decision No. 28261

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Pacific Motor Transport Company for certificate of public convenience and necessity for the extension of its express operations to, from and between (a) points on the Sonoma Valley Branch of the Northwestern Pacific Railroad Company north of Sonoma; (b) points served by truck lines of Akins, Herrick and Fredericksen in Lake County; (c) points served by Lake Tahoe Transportation Company; (d) points served by Covelo Stage Line; (e) points on Keeler-Owenyo Branch of Southern Pacific Company; (f) points on the Southern Pacific line between Laws and Benton, inclusive; (g) between points on Southern Pacific's branch line between Redlands and Greenspot, inclusive; (h) between points on Southern Pacific's main line between Niland and Colorado, inclusive; (i) between points served by the Coalinga Branch of Southern Pacific Company between Coalinga and LeRoy, inclusive; (j) between points served by the Southern Pacific's main line between Cole and Hilt inclusive; (k) between points on Southern Pacific's Dairyland Branch between Chowchilla and Dairyland, inclusive; (l) between points on Southern Pacific's McKittrick Branch between McKittrick and Olig, inclusive; (m) between points on Southern Pacific's line between Alturas and Hatfield, inclusive; (n) between points served by Southern Pacific's line between Alturas and Wendel, inclusive; (o) between points served by Southern Pacific's branch line between Wendel and Westwood, inclusive; (p) between points served by Southern Pacific's Valley Spring Branch between Valley Spring and Kentucky House, inclusive; (q) between points served by Southern Pacific's Woodbridge Branch between Lodi and Woodbridge, inclusive.

ORIGINAL

Application

No. 19942.

(Amended)

H. W. Hobbs for applicant.

Brobeck, Phleger & Harrison, by James S. Moore, Jr.,  
for Tahoe Transportation Company, as its interest  
may appear.

BY THE COMMISSION:

OPINION

In this application the Pacific Motor Transport Company

seeks a certificate of public convenience and necessity for the purpose of clarifying its operating rights and continuing in effect certain express rates and services now being performed under tariffs on file with this Commission, the details of which will hereinafter be discussed. It also applies for a certificate of public convenience and necessity granting authority to extend its express operations over the Sonoma Valley Branch of the Northwestern Pacific Railroad and between certain flag-end points on the rails of the Southern Pacific Company.

A public hearing was held before Examiner Geary August 7, 1935, at San Francisco, and the matter was submitted.

We will now consider the first half of the application wherein a certificate is sought to cover operations actually being performed to Lake County, Lake Tahoe and Covelo points, which have been carried on for some time past. This part of the application is based on an amendment to the Public Utilities Act by the legislature of 1933, which amendment added a new Section (50(f)) reading in part as follows:

"(f) 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 first secure from the Railroad Commission, upon formal application therefore, 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. \* \* \*

Application for a certificate to protect the services rendered prior to May 1, 1933, is in effect responsive to our Decision No. 27593 in Application No. 19177, et al, rendered under date of December 17, 1934, wherein all respondents were notified to take the necessary action bringing their tariffs into conformity with the alleged good

faith operation. It is shown in the application and by the testimony of witnesses at the hearing that the Pacific Motor Transport Company filed its Local Express Tariff No. 17 C.R.C. No. 20, effective July 1, 1933, and its Local Express Tariff No. 9, C.R.C. No. 13, effective August 15, 1933, to and from all of the points in Lake County served by A. M. Akins, S. B. Herrick Company, and Fredericksen & Sons; that the Lake Tahoe points are embraced in applicant's Local Express Tariff No. 16, C.R.C. No. 19, effective July 1, 1933, and cover services performed on the Tahoe Transportation Company and that the points served by Covelo Stage Lines, as set forth in the application, are included in applicant's Local Express Tariff No. 12-A, C.R.C. No. 21, effective August 1, 1933, to and from points served by the Covelo Stage Line. In these three territories, the Lake County terminal services are performed by the certificated truck lines of A. M. Akins, S. B. Herrick, and Fredericksen & Sons; the Lake Tahoe points by the Tahoe Transportation Company; and the Covelo territory by the Covelo Stage Line; and, as heretofore stated, under tariffs on file with this Commission. It is clearly in the interest of the shipping public, who have been receiving these express services with the pick-up and delivery of property from this applicant before the amendment to the statute of 1933 and since, that their privileges and services are a public convenience and necessity and should not now be disturbed.

We are of the opinion and hereby find as a fact that public convenience and necessity require the authorization of the proposed services.

Referring now to the second part of the application wherein a certificate of public convenience and necessity is sought to serve all points located on the Sonoma Valley Branch of the Northwestern Pacific Railroad Company, as set forth in Paragraph 3 of the application: viz:

Verano  
Boyce Springs  
Fetters Springs  
Agua Caliente

Watriss  
Yulupa  
Eldridge  
Glen Ellen

Warfield  
Beltsain  
Wildwood  
Kenwood

These stations, 12 in number, are the only points located on the Northwestern not now served by applicant. Under the present tariffs and operating rights, the Pacific Motor Transport Company can only handle property to and from the town of Sonoma, at which point the tonnage must be turned over to the Northwestern under separate way-bills, a situation not in any manner conducive to a proper service to the shipping public.

The other points where applicant desires to extend its operations are located on the system of the Southern Pacific Company and are principally branch line points as enumerated in Paragraph VII of the application, viz:

- \*Owens to Keeler, inclusive, and intermediate points.
- \*Laws to Benton, inclusive, and intermediate points.
- \*Redlands to Greenspot, inclusive, and intermediate points.
- \*Niland to Colorado, inclusive, and intermediate points.
- \*Coalinga to LeRoy, inclusive, and intermediate points.
- \*Hilt to Cole, inclusive, and intermediate points.
- \*Chowchilla to Dairyland, inclusive, and intermediate points.
- \*McKittrick to Olig, inclusive, and intermediate points.
- \*Valley Spring to Kentucky House, inclusive, and intermediate points.
- \*Lodi to Woodbridge, inclusive, and intermediate points.
- #Alturas to Hatfield, inclusive, and intermediate points.
- #Alturas to Wendel, inclusive, and intermediate points.
- Wendel to Westwood, inclusive, and intermediate points.

Here again the applicant serves, as an express corporation, generally over the system of this railroad but under the present operative rights and tariff adjustments it can only render the express service to the junction points. It will not be necessary to discuss

---

\* Express service of Pacific Motor Transport Company already extends between these points and nearly all other points served by Southern Pacific Lines in California.

# Express service of applicant Pacific Motor Transport Company is in operation between Alturas and only certain local points.

the entire territory and all points involved; a few illustrations will suffice. The distance from San Francisco to Owenyo is 523 miles and from Owenyo to Keeler 17 miles. Applicant can serve Owenyo but not Keeler. The distance from San Francisco to Redlands is 546 miles (served by applicant); whereas the distance from Redlands to Greenspot (which cannot be served by it) is but 5 miles. Other illustrations of short distances may be mentioned: Coalinga to LeRoy 4 miles; Hilt to Cole 1 mile; Coachella to Dairyland 9 miles; McKittrick to Olig 2 miles; Lodi to Woodbridge 3 miles. The longest distance is from Niland to Colorado 104 miles. Applicant is seeking authority to serve these broken links and presented testimony to show that there is tonnage offered and that it is difficult for the truck drivers and agents to explain to shippers why an express service can be rendered by this applicant to a junction point and not a few miles further over branch lines operated by the Southern Pacific Company. This is not a situation where a new carrier is entering the territory but it is an application to improve existing services.

There was ample testimony to sustain the application. Interested common carriers were notified of the proceeding but no one appeared in opposition.

This record shows and we find that there is a public convenience and necessity and that this part of the application should also be granted.

Applicant should file in full with the Commission the schedules of rates to be charged as set forth in the exhibits filed with this application.

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 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 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 Transport Company, as an express corporation, as defined in Section 1 (ka) and Section 50 (f) of the Public Utilities Act, between Lake County points as shown in Pacific Motor Transport Company's Local Express Tariff No. 17 C.R.C. No. 20 and Local Express Tariff No. 9, C.R.C. No. 13; between Lake Tahoe points as shown in Local Express Tariff No. 16 C.R.C. No. 19; and between Covelo Stage Line points as shown in Local Express Tariff No. 12-A, C.R.C. No. 21 and re-issues thereof, as set forth in Paragraphs IV, V and VI, not as new points and services but as a continuation of the services now being rendered under the tariffs just referred to.

IT IS FURTHER HEREBY DECLARED that public convenience and necessity require the operation by the Pacific Motor Transport Company of an express service between Sonoma Valley points of the Northwestern Pacific Railroad Company and between points located on the lines of the Southern Pacific Company, as set forth in the application in Paragraph III and Paragraph VII and as set forth and heretofore referred to in our Opinion and Order.

IT IS HEREBY FURTHER ORDERED that a certificate of public convenience and necessity for such express services be and the same is hereby granted to Pacific Motor Transport 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 days from the date hereof.
2. Applicant shall file in triplicate and make effective within a period of not to exceed thirty days from the date hereof, and on not less than ten days' notice to this Commission and the public, a tariff or tariffs constructed in accordance with the requirements of this Commission and containing rates and rules which, in volume and effect, shall be the rates and rules proposed in the application in so far as they conform to the certificate herein granted.
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.

For all other purposes the effective date of this order is hereby fixed as twenty (20) days from the date hereof.

Dated at San Francisco, California, this 3rd day of September, 1935.

Leon A. White

M. J. Carr

Frank R. Sullivan  
Commissioners: