

Decision No. 28288.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of Application of)
 PACIFIC MOTOR TRANSPORT COMPANY for)
 a certificate of public convenience and)
 necessity for the extension of its)
 express operations to, from and between)
 points on the line of Nevada County Narrow)
 Gauge Railroad Company and to, from and between)
 points which Nevada Pacific Trucking Agency)
 has applied for authority to serve under)
 Application No.19245.)
 Application No.19746.

E. J. Foulds and A. Jones, for applicant
 in Applications Nos.19245 and 19746; also
 for Protestants in Application No.19693.

Douglas Brookman and Lyane Kelly, for Nevada
 County Trucking Company and Nevada-Pacific
 Trucking Agency, applicants in Application
 No.19245; and for Nevada County Narrow
 Gauge Railroad Company, Intervenor in support
 of Application No.19245; and for Protestants
 Nevada County Trucking Company and Nevada-
 Pacific Trucking Agency, and Nevada County
 Narrow Gauge Railroad Company in Application
 No.19693.

Sanborn & Roehl, by A.B.Roehl, for United Motor
 Transport Company, Applicant in Application
 No.19693, and Protestant in Applications
 Nos.19245 and 19746.

Edwin G. Wilcox, for Oakland Chamber of Commerce
 in Application No.19245.

Hal Remington, for the San Francisco Chamber of
 Commerce in Application No.19245.

Nilon, Hennessy & Kelly, by Lyme Kelly, for
 Empire Star Mines Company, Ltd., in support of
 Applications Nos.19245 and 19746, and protesting
 Application No.19693.

E.E.Armstrong, for Applicant in Application
 No.19693, and Protestant in Applications
 Nos.19746 and 19245.

T. L. Chamberlain, on behalf of certain individuals
 named in Transcript, protestants in Application
 No. 19245.

W.E.Wright, City Attorney of the City of Nevada, protesting application No.19693.

W.E.Griffin, on behalf of the Nevada City Chamber of Commerce, protesting Application No.19693, and in support of Applications Nos.19245 and 19746.

McCutchen, Olney, Mannon & Greene, by F.W.Mielke for The River Lines, in support of Application No.19693 and protesting Applications Nos. 19245 and 19746.

W.G.Stone, for Sacramento Chamber of Commerce, as their interests may appear in all three applications.

Lynne Kelly and Douglas Brookman, for Colfax Fruit Growers' Association, in support of Applications Nos.19245 and 19746 and protesting Application No.19693.

Lynne Kelly and Douglas Brookman, for Empire Star Mines, Limited, in support of Applications Nos.19245 and 19746 and protesting Application No.19693.

HARRIS, COMMISSIONER:

O P I N I O N

Applicant asks for a certificate of public convenience and necessity to extend its express operations over the line of the Nevada County Narrow Gauge Railroad Company operating between Colfax and Nevada City and intermediate points and also over the line of Nevada Pacific Trucking Agency between Sacramento and Nevada City and those certain intermediate points served by said Agency if and when said Trucking Agency receives authority to operate between said points.

Said authority has been granted to said Trucking Agency in Decision No. 28287 in Application No.19245.

Applicant is a California corporation operating as an express company over the lines of various underlying common carrier railroads and truck lines. It provides store-door pick-up and delivery service to all points of origin and to all points

of destination on the lines over which it operates. It operates on the lines of Southern Pacific Railroad covering practically all points served by that road.

Grass Valley and Nevada City are two of the few remaining points in the State that do not now have this service. The granting of the certificate asked for herein will provide it for them.

Public witnesses testified to the need of the proposed service.

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.

The following findings and Order are recommended:

O R D E R

The Railroad Commission of the State of California hereby adopts as its findings the statement of facts and findings contained in the above Opinion and, in addition thereto, declares that public convenience and necessity require the operation by Pacific Motor Transport Company of its express service over the line of the Nevada County Narrow Gauge Railroad Company operating between Colfax and Nevada City and intermediate points and also over the line of the Nevada Pacific Trucking Agency operating between Sacramento and Nevada City and those certain intermediate points served by said Agency.

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 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 (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 (10) 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 in so far 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 (5) 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.

For all other purposes, the effective date of this Order shall be twenty (20) days from the date hereof.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 21st day of October, 1935.

Leon Whitely
M. A. C. M.
M. B. Harris
Walter K. ...
Paul R. ...
Commissioners.