

Decision No. 28290

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of PACIFIC MOTOR TRUCKING COMPANY)
for enlargement of its operative)
rights for the transportation of)
property by motor truck in the)
vicinity of Point Reyes, Petaluma,)
etc. originally granted to Jos.)
Barrere, Inc. under Decision)
No. 26189 and transferred to appli-)
cant under Decision No. 26846.)

Application No. 19996.

ORIGINAL

H. W. Hobbs, for applicant.

Nathan F. Coombs, for Napa Valley Bus Company and San Francisco, Napa & Calistoga Railway Company.

W. E. Kessler for Mendocino Coast Transit Company and Coast Line Stages, Inc.

Sanborn & Roehl, by Clair McLeod, for California Western Railroad & Navigation Company.

WARE, COMMISSIONER:

O P I N I O N

Pacific Motor Trucking Company is operating auto truck common carrier service between various points in Marin, Sonoma, Solano and Napa Counties, transporting milk and cream and cream products from dairies to creameries and railroad stations of Northwestern Pacific Railroad Company for shipment to consuming markets and, in reverse direction, various farm and dairy supplies from railroad points to ranches over certain highways and within ten miles thereof, under certificate granted to Jos. Barrere, Inc., by Decision No. 26189 on Application No. 18923, and transferred to applicant under authority of Decision No. 26846 on Application No. 19332. By this application Pacific Motor Trucking Company asks a clarification of those rights and an enlargement thereof by the removal of certain restrictions, and an extension thereof into territory lying north

of Jenner, up to and including Greenwood Creek Bridge.

It appears that under the existing certificate there is some question as to the right of the applicant to transport milk and cream and/or milk and cream products other than to railroad depots for shipment to San Francisco and San Francisco Bay consuming territory; also, as to whether shipments of other commodities may be transported except to dairies. No mention is made in the certificate of the right to transport empty containers.

Public hearing was held at Santa Rosa on October 17, 1935, and witnesses were sworn and testified. No protests were made against the granting of the application.

W. R. McLean, Assistant Mail and Express Traffic Manager of Southern Pacific Company and in charge of milk and cream service of Northwestern Pacific Railroad Company, testified that a strict interpretation of the existing certificate would have the effect of seriously curtailing the service which applicant can render; that there is frequent demand for the movement of milk and cream and/or milk and cream products and containers between creameries, from points outside the territory to the creameries, and that dairy products frequently move via rail to points other than San Francisco and San Francisco Bay consuming territory. He further testified that the restriction of shipments moving into dairies and to creameries to 100 pounds per unit deprives the dairy industry of necessary service, particularly with respect to machinery and parts thereof, cleansers and feed. Witnesses testified that it is necessary to purchase feed in 5-ton lots in order to get delivery, and that such purchases are inconvenient and a hardship.

There is also some question as to the right to transport all classes of freight and that frequent demand is made upon applicant for transportation of commodities not ordinarily considered dairy

supplies. The record shows that it would be in the public interest to permit applicant to transport all commodities without restriction, in order to supply a complete service to its patrons, the great majority of whom have no common carrier service available.

A stipulation was filed by applicant and San Francisco, Napa & Calistoga Railway Company to the effect that applicant seeks no additional rights, operative or territorial, between the terminal points or locally, of Calistoga, in Napa County, and Vallejo in Solano County, and/or Napa Valley points and San Francisco, except the right to transport eggs where eggs are sold to the same creameries which buy from the producers the milk, cream and creamery products which applicant transports for them to Petaluma or Santa Rosa under its present operating rights.

The record herein shows that there are a few creameries which deal in eggs as well as butter and cream, which desire that applicant transport for them eggs produced by and purchased from the same patrons in Napa and Solano counties who sell their cream to such creameries. We believe such enlargement of rights is required by public convenience and necessity.

Applicant also seeks an extension of its rights from Jenner northerly to Greenwood Creek Bridge, a point situated about one-half mile south of Elk Post Office. The record shows that this territory is largely devoted to dairying and a recent survey made therein established that there are over 2,000 cows maintained in the territory in question. The applicant desires to serve the dairies along the highway and within ten miles thereof, principally for the purpose of transporting milk and cream and/or milk and cream products from dairies, creameries and milk and cream receiving stations, and the right to transport in return movement to such dairies, creameries and milk and cream receiving stations empty containers, supplies and other classes of property. The record clearly establishes that public convenience and necessity requires

the proposed service as an extension and part of applicant's existing rights.

It further appears that Northwestern Pacific Railroad Company, pursuant to authority granted by this Commission by Decision No. 27973 dated May 20, 1935, in Application No. 19844 has discontinued operation of trains between stations on the Sonoma Valley Branch, and that applicant was authorized, by ex parte order, Decision No. 28034, dated June 11, 1935, granted upon supplemental application herein, to transport shipments of express matter of Pacific Motor Transport Company and Railway Express Agency, Inc., in lieu of said train service as an emergency until disposition of this application upon final hearing.

It further appears that, pursuant to authority of certificate of public convenience and necessity, dated September 26, 1935, Finance Docket No. 10893 of the Interstate Commerce Commission, Northwestern Pacific Railroad Company was authorized to abandon its branch line of railroad extending from Fulton to Duncan Mills, and that it was about to discontinue such operation. The record establishes that public convenience and necessity require that applicant be authorized to transport shipments of all classes of property between the points on said Sonoma branch and on said Guerneville Branch, Fulton to Duncan Mills, inclusive, the proposed substituted service in both instances to be a part of the right generally to serve in the territory involved.

We are of the opinion that the application, as amended, should be granted and that certificate of public convenience and necessity should issue for the rights herein applied for.

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 by the State which is not in any respect limited as to the number of rights which may be given.

O R D E R

Public hearing having been held in the above proceeding and the matter submitted,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by Pacific Motor Trucking Company of auto truck service, as hereinafter defined, as a common carrier for the transportation of property.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to Pacific Motor Trucking Company for an auto truck service as a common carrier between all points on the following routes;

From Jenner via Duncan Mills, Monte Rio, Trenton, Healdsburg, Santa Rosa and Petaluma to Sausalito;

From Jenner to Greenwood Creek Bridge;

From Jenner via Bay and Bodega to Valley Ford;

From Monte Rio via Graton and Sebastopol to Petaluma;

From Graton to Santa Rosa;

From Camp Meeker via Freestone, Valley Ford and Bloomfield to Petaluma;

From Valley Ford via Tomales to Petaluma;

From Tomales via Marshall and Point Reyes to San Rafael;

From Santa Rosa via Beltane and Sonoma to Petaluma;

From Shellville via Sears Point and Black Point to Ignacio;

From Napa via Shellville to Sonoma;

From Petaluma via Lakeville to Reclamation;

From Vallejo via Napa and Oakville to Beltane;

with right to pick up at or deliver to points not exceeding ten miles on each side of any highway traversed; subject to the following conditions: Between Jenner and Greenwood Creek Bridge applicant shall

transport shipments only to creameries, milk and cream receiving stations and dairies from which it transports milk and cream, and/or milk and cream products; and in the territory in Napa and Solano Counties between the termini of the San Francisco, Napa & Calistoga Railway Company, namely, Calistoga, in Napa County, and Vallejo, in Solano County, applicant shall transport only to dairies and creameries shipments of farm and dairy supplies not exceeding one hundred pounds in weight except shipments of milk and cream and/or milk and cream products and empty containers and eggs, which shipments may be transported regardless of weight or direction and provided that applicant shall transport eggs only from dairies from which it transports milk and cream and/or milk and cream products to Santa Rosa or Petaluma.

IT IS FURTHER ORDERED that the authority hereby granted shall constitute a single operating right and shall be in lieu of the rights granted by Decision No. 26189 on Application No. 18923, Decision No. 26846 on Application No. 19332 and Decision No. 28034, dated June 11, 1935, on this application, and 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 in so far as they conform to the certificate herein granted; or rates satisfactory to the Railroad Commission.
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.

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 9th day of October, 1935.

Leon Whiskey

W B Lewis
W B Lewis

Commissioners.