

Decision No. 28497

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 Trans-
portation Company) for a certifi-
cate of public convenience and
necessity authorizing the trans-
portation of freight by auto truck
between Martinez and Benicia as an
alternative service and in connec-
tion with transportation by vessel
to and from Martinez.

Application No. 20302.

ORIGINAL

BY THE COMMISSION:

O P I N I O N

The River Lines, a management agency of the unified operations of The California Transportation Company, a corporation, Sacramento Navigation Company, a corporation, and Fay Transportation Company, a co-partnership composed of Nahum Fay and Norvin Fay, in this application is requesting authority to establish an alternative service by auto truck between Martinez and Benicia for the transportation of freight originating at or destined to Benicia in connection with service by water between Martinez and the other points served by applicant. Said transportation by auto truck between Martinez and Benicia will be via the ferry service maintained by the Martinez - Benicia Ferry & Transportation Company.

Applicant proposes to provide by tariff, rule or regulation, that, at applicant's convenience, freight originating at or destined to Benicia may be moved by auto truck between Martinez and Benicia. No local track service is proposed between such points nor is any change of rates

contemplated for the service herein proposed to and from existing docks, wharves or warehouses.

Applicant alleges as justification for the authority requested that if such authority is granted the applicant will be able to effect substantial economies in operation and maintenance and to improve its services to shippers and receivers of freight in Benicia, particularly during periods of low tide.

Applicant states that the proposed service will be either by means of auto trucks owned or leased by applicant or by means of auto trucks owned and operated by other persons, as agents for applicant under contract with applicant.

In this connection the Commission directs the attention of the applicant to the provisions of General Order No. 67 of the Commission which does not permit a certificated automotive operation by means of automotive equipment owned and operated by other persons as agents either under contract or otherwise. Transportation companies "shall either own their equipment (proprietary control being deemed ownership) or lease such equipment for a specified amount on a trip or term basis, the leasing of equipment not to include the services of a driver or operator."

Under the date January 7, 1936, Southern Pacific Company and Pacific Motor Transport Company through counsel advised the Commission in writing that neither company desired to protest the granting of the application herein applied for.

This is a matter in which a public hearing is not necessary and the application will be granted.

The River Lines 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

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by The River Lines, a management agency of The California Transportation Company, a corporation, Sacramento Navigation Company, a corporation and Fay Transportation Company, a co-partnership of Nahum Fay and Norvin Fay, of an alternative automotive truck service as a highway common carrier for the transportation of property between Martinez and Benicia when such property has either the point of origin or destination of Benicia, said service to be in conjunction with and as a part of applicant's water service between Martinez and other points.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be and it hereby is granted to The River Lines, a management agency of The California Transportation Company, a corporation, Sacramento Navigation Company, a corporation, and Fay Transportation Company, a co-partnership of Nahum Fay and Norvin Fay, subject to the following conditions:

1. Only property for transportation having its point of origin or destination at Benicia and received from or delivered to applicant's vessels at Martinez shall be transported under the certificate herein granted.
2. The rates to be charged for the combined water and automotive truck service shall in no case differ from the rates of the applicant contemporaneously applicable for the transportation of property between the points herein involved.
3. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.
4. Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days from the effective date hereof an amendment to its tariffs to provide for the alternative service herein authorized.
5. 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 obtained.
6. 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 12th day of January, 1936.

M. B. Harris
James O. White
W. A. Cunniff
W. H. ...
W. H. ...
 COMMISSIONERS.