

CS

Decision No. 29044

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)
JOSEPH PALACE, GENE ANTICHI and SAM)
ARONSON, doing business under the)
fictitious name and style of MOUNT)
LASSEN FAST FREIGHT for an extension)
of certificate to include Westwood,)
California.)

Application No. 20343.

ORIGINAL

Thomas O'Hara, for Applicant.

L. N. Bradshaw, for Western Pacific Railroad
Company, Sacramento Northern Railway,
Southern Pacific Company, Pacific Motor
Transport Company, and Railway Express
Agency, Inc., Protestants.

Sam Aronson, for Mount Lassen Transit Company,
Interested Party.

J. S. Ginocchio, for Nevada-California Trans-
portation Company and Nevada-California
Fast Freight, Interested Parties.

BY THE COMMISSION:

O P I N I O N

In this matter the applicant, Mount Lassen Fast Freight, a co-partnership composed of Joseph Palace, Gene Antichi and Sam Aronson, which now operates as a Highway Common Carrier between Sacramento and Chico, on the one hand, and Susanville and intermediate points north of Chico on the other hand, excluding Westwood, under a certificate of public convenience and necessity previously granted, seeks an extension of this certificate authorizing applicant to serve Westwood. The application was protested by certain common carriers operating in this territory, including Southern Pacific Company, Pacific Motor Transport Company, Western Pacific

Railroad Company and Railway Express Agency, Inc.

A public hearing was had before Examiner Austin at Westwood on April 16th, 1936, when evidence was offered, the matter was submitted, and it is now ready for decision.

Applicant is a Highway Common Carrier as defined in Section 2-3/4, Public Utilities Act, operating by virtue of a certificate of public convenience and necessity granted by the Commission in Decision No. 26773, dated February 5th, 1934, in Application No. 19117, to Louis E. Smith, doing business under the fictitious name and style of Lassen Trucking Service, which was subsequently transferred to applicant pursuant to Decision No. 28333, dated November 6th, 1935, in Application No. 20212. Under this certificate applicant is authorized to render service as a Highway Common Carrier between Sacramento and Chico, on the one hand, and Susanville and intermediate points north of Chico, on the other hand, excluding Westwood, via U. S. Highway 99 E between Sacramento and the intersection just south of Red Bluff, and thence via State Highway to Susanville. A daily schedule is maintained, except on Sundays and Holidays, under which an over-night service is performed.

The town of Westwood, which applicant now seeks to serve, is located approximately one mile in a southerly direction, off the State Highway running between the intersection with U. S. Highway 99 E and Susanville. The service to and from Westwood will be coordinated and consolidated with the present operations. In this service applicant will use its present equipment, consisting of two trucks, a 1935 Studebaker and a 1929 Fageol with Deisel motor. Applicant carries full insurance coverage, including cargo, collision, public liability and property damage insurance.

Applicant proposes to furnish an over-night service from Sacramento leaving at 5:00 o'clock P.M. and arriving in Westwood en route to Susanville at 5:15 A.M., allowing forty-five minutes for deliveries and pick-ups before continuing on at 6:00 o'clock A.M. to Susanville, arriving at 8:00 o'clock A.M. The service proposed from Susanville will leave at 2:00 o'clock P.M. and arrive at Westwood en route to Sacramento at 3:00 o'clock P.M., allow an hour for making deliveries and pick-ups and then continue at 4:00 o'clock P.M. to Sacramento and arrive there at 5:00 o'clock A.M. This service will be conducted daily except on Sundays and holidays. Freight picked up on Saturday will be delivered on the following Monday.

From the testimony of merchants and other business men, nine of whom were called by applicant, it appears that an over-night service from Sacramento to Westwood is needed, particularly for perishables such as meat, fresh fruit and vegetables and for auto parts and drugs. The present service, so they stated, was not sufficiently expeditious. All testified they would use the applicant's service, were it established.

Freight handled by rail from Sacramento over the Western Pacific ordinarily is delivered at Westwood on the second day after shipment, although on rare occasions it has been delivered in the evening of the first day. A merchandise car leaves Sacramento for Westwood on Tuesday, Thursday and Saturday of each week, and a refrigerator car service is provided from Sacramento to Westwood on Wednesday and Saturday of each week for perishables when tonnage of 10,000 pounds or more is offered. No pick-up and delivery service is provided at Westwood. A daily service (except Sunday) is afforded by the Southern Pacific and the Pacific Motor Transport Company,

providing second day delivery at Westwood. An over-night delivery service is furnished by Railway Express Agency, Inc., via rail from Sacramento to Reno and by truck from Reno to Westwood. A contract truck line also furnishes some service to and from Westwood, calling twice a week on Monday and Friday, but this, the record shows, is wholly inadequate to meet the needs of the Westwood merchants.

The evidence is convincing that the present transportation service available to the shippers and receivers of freight at Westwood, upon shipments originating at or destined to Sacramento, is inadequate for their needs. Under the circumstances applicant will be authorized to extend its present certificated operative right so as to include therein service to and from Westwood. However, in accordance with applicant's stipulation at the hearing, no service will be permitted between Westwood and Red Bluff and intermediate points.

Based upon the evidence offered at the hearing in this matter,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY FINDS AS A FACT that public convenience and necessity require the operation by applicant, as a Highway Common Carrier, as defined in Section 2-3/4, Public Utilities Act, of a highway automotive trucking service for the transportation of property to and from Westwood,

California, as an extension of and to be co-ordinated and consolidated with its present certificated operative right between Sacramento and Chico on the one hand, and Susanville and intermediate points north of Chico, on the other hand, so as to include Westwood therein; provided, however, that no property may be transported for compensation between Westwood and Red Bluff and intermediate points.

Applicant 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 had in the above entitled proceeding, evidence having been received, the matter having been duly submitted, and the Commission now being fully advised:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA DOES HEREBY DECLARE that public convenience and necessity require the operation by applicant, Mount Lassen Fast Freight, a copartnership consisting of Joseph Palace, Gene Antichi and Sam Aronson, as a Highway Common Carrier, as defined in Section 2-3/4, Public Utilities Act, of a highway automotive trucking service for the transportation of property to and from Westwood, California, as an extension of and to be co-ordinated and consolidated with its present certificated operative right between Sacramento and Chico, on the one hand, and Susanville and intermediate points north of Chico, on the other hand, so as to include Westwood therein; provided, however, that no property may be transported for compensation between Westwood and Red Bluff and intermediate points.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same is, hereby granted to said applicant, Mount Lassen Fast Freight, a copartnership consisting of

Joseph Palace, Gene Antichi and Sam Aronson, subject to the following conditions:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate and concurrently make effective on not less than ten days' notice to the Railroad 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 and rules 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 Railroad 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 obtained.
5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant 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 17th day of August,

1936.

Gene Antichi
Sam Aronson
Joseph Palace
Frank R. White
Commissioners.