

Decision No. 29045

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)
 PACIFIC MOTOR TRUCKING COMPANY for a)
 certificate of public convenience and)
 necessity for the transportation of)
 property originating at and destined)
 to points which applicant is)
 authorized to serve by Decisions Nos.)
 26845 and 27684, for rail and express)
 companies by motor truck between)
 Sacramento and Davis, by way of U. S.)
 Highway No. 40, and to consolidate)
 said operation with those conducted)
 by applicant under authority of)
 Decisions Nos. 26845 and 27684.)

Application No. 20481.

ORIGINAL

R. S. Myers, for Pacific Motor Trucking Company,
 Applicant;

W. L. Warner, for W. L. Warner, doing business as
 Sacramento Auto Truck Company,
 Protestant;

W. E. Hibbitt, for W. E. Hibbitt, doing business
 as Sacramento Motor Transport,
 Protestant.

BY THE COMMISSION:

O P I N I O N

In this proceeding the applicant, Pacific Motor Trucking Company, a corporation, seeks a certificate of public convenience and necessity authorizing it to transport by motor vehicle between Sacramento and Davis, via U. S. Highway No. 40, property originating at and destined to points which applicant is now authorized to serve under Decisions Nos. 26845 and 27684, in the custody of rail and express carriers, and to consolidate such operations with those now conducted from Davis under authority of these decisions.

A public hearing was had before Examiner Austin at Sacramento on May 8th, 1936, when evidence was offered, the matter submitted, and it is now ready for decision.

By Decision No. 26845, dated March 5th, 1934, in Application No. 18982, the present applicant was granted a certificate authorizing the operation of an automotive truck service between Esparto and Rumsey and intermediate points, subject to the limitation that no local transportation of property weighing fifty pounds or less may be performed to or from any point between Esparto and Rumsey or any point intermediate to such terminals. By Decision No. 27684, dated January 14th, 1935, in Applications Nos. 19669 and 19699, a certificate of public convenience and necessity was granted to applicant herein, authorizing the operation of an automotive truck service between the railroad stations located on the line of Southern Pacific Company between Fairfield, Davis, Dixon, Vacaville, Winters, and Esparto, with an alternate route between Davis and Winters, and points intermediate thereto, together with the right to furnish a pick-up and delivery service, as agent for the express companies where such services are provided in express tariffs, this service being limited to the transportation of property previously consigned for transportation over the line of Southern Pacific Company and which may be delivered to Pacific Motor Trucking Company by Southern Pacific Company, Pacific Motor Transport Company, or Railway Express Agency, Inc. This operative right was consolidated with the operations conducted between Esparto and Rumsey by authority of Decision No. 26845.

Pursuant to these certificates applicant has been conducting a motor truck service between these points. At Davis,

freight is transferred from the rail facilities to applicant's trucks, a practice that has proved quite satisfactory for tonnage originating at Sacramento. But freight from San Francisco and Bay points is ordinarily from 45 minutes to two hours late, on approximately 25 days of each month, in arriving at Davis. This is due to the heavy traffic handled by this train, which is continually increasing. The delay thus occasioned in the departure of trucks from Davis has resulted in many complaints of the undependable freight service and late arrival of the mail, which also is carried upon the trucks. To remedy this situation, applicant proposes to handle this freight on the "Merchant," a fast train from Oakland arriving at 1:00 o'clock A.M. at Sacramento, where freight will be transferred to trucks and transported to the points now served. Since this is a through train, serving points north of Gerber, it cannot maintain its present schedule if it is permitted to stop at Davis. Applicant will conduct no local service between Sacramento and Davis, proposing, on the contrary, to transport only freight originating at and destined to points served under the certificates mentioned, carrying only such traffic as it may now be authorized to handle through Davis.

W. L. Warner, doing business as Sacramento Auto Truck Company, and W. E. Hibbitt, doing business as Sacramento Motor Transport, appeared as protestants, but, following the completion of applicant's showing, they withdrew their objections to the proposed certificate. In our opinion this application should be granted.

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 matter, evidence having been adduced, the matter having been submitted, and the Commission being now fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by applicant PACIFIC MOTOR TRUCKING COMPANY, a corporation, as a Highway Common Carrier, as defined in Section 2-3/4, Public Utilities Act, of an automotive truck service, via U. S. Highway No. 40, between the railroad stations located on the line of Southern Pacific Company at Sacramento and Davis, as an extension of and to be consolidated with the operative rights heretofore granted to said applicant by Decision No. 26845, dated March 5th, 1934, in Application No. 18982, and by Decision No. 27684, dated January 14th, 1935, in Applications Nos. 19669 and 19699, for the transportation of property originating at and destined to such points as said applicant is authorized to serve by said Decisions Nos. 26845 and 27684; provided, however, that there shall be delivered to said applicant for transportation by motor truck at Sacramento only such traffic as is now delivered to it for such transportation at Davis.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same is, hereby granted to PACIFIC MOTOR TRUCKING COMPANY, 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 two (2) 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 two (2) 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 two (2) days from the date hereof.

Dated at San Francisco, California, this 17th day of

August, 1936.

M. B. Harris
Dean Wheeler
M. A. Carr
Walter H. Brown
Walter R. Hill

Commissioners.