

Decision No. 20729.

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PACIFIC MOTOR TRUCKING COMPANY, for
the extension of its operative rights
for the transportation of property
between Stockton and Martell via Lodi,
from Lodi to Sacramento.

Application
No. 20729.

H. W. Hobbs for Applicant.
R. S. Elliott for Railway Express Agency,
Inc., Interested Party.
J. C. Summers for Stockton Chamber of
Commerce, Interested Party.
Gene Antichi for Sacramento-Corning Freight
Lines, Ltd., Protestant.

BY THE COMMISSION:

O P I N I O N

Applicant is a subsidiary of Southern Pacific Company and conducts freight transportation for the railroad and its subsidiary, Pacific Motor Transport Company, an express corporation, and for Railway Express Agency Inc., between Stockton and Martell, via Lodi, under proper authorization of this Commission. Applicant now seeks extension of its service from Lodi to Stockton, in order that it may serve Acampo, Galt, McConnell, Elk Grove, Florin and Sacramento for the traffic of the carriers already named and other express carriers desirous of using said service.

Public hearing herein was conducted by Examiner W. R. Williams at Stockton, the matter was duly submitted and

now is ready for decision.

The direct purpose of the extension of truck transportation is to expedite service from Stockton and Sacramento to the intermediate points named and, especially important, to make connections at Sacramento with services distributing Stockton traffic north and east of Sacramento. The need for such expedition, as testified to by J. C. Summers, Traffic Manager of Stockton Chamber of Commerce, is to equalize access by Stockton shippers to such territory, with San Francisco Bay overnight service and, similarly, from Sacramento.

At present Southern Pacific Company maintains L. C. L. freight service three times weekly between Stockton and Sacramento but does not connect with northbound carriers, hence a great proportion of shipments from points south of Sacramento suffer a delay of twenty-four hours or more. The daily (except Sunday) truck service will provide connection and eliminate delay. In addition, it will expedite delivery of shipments from the San Francisco Bay region, either through Stockton or Sacramento, to intermediate points.

Applicant alleges that the operation of a freight train daily is economically impossible, ⁽¹⁾ as the present daily movement is only 3.75 tons northbound and 2.15 tons southbound, according to the testimony of J. T. Martin, special agent of Pacific Motor Transport Company. It is expected that truck service, as proposed, will increase the tonnage of this carrier. No

(1) Exhibit No. 5 estimates a cost of \$20,939.00 per annum for additional train service. Exhibit No. 1 estimates a cost of \$5,571.00 for the truck operation proposed.

estimate of Railway Express Agency tonnage was presented but R. S. Elliott, route agent of this carrier, testified that the service would be useful. A study of traffic to intermediate points indicates that 167 shippers and receivers will gain improvement monthly on an average of 778 shipments, including all carriers.

Shippers' witnesses supporting applicant were W. H. Edwards, Superintendent of Florin Basket Company, Florin, Albert Rieder, Galt, Manager Segro Milk Products Company and Arthur Cellini, Lodi, owner of the Acampo Winery, all of whom want quicker service from San Francisco Bay region, and to points north of Sacramento; also, F. H. Powers of Los Angeles, Traffic Manager of Sears Roebuck Company for its branch at Stockton, J. P. Underhill, Stockton, of R. G. La Tourneau Company, road machinery; S. A. Metz, Stockton, Manager Massey-Harris Company, agricultural implements, and eight other shippers of Stockton, emphasized the need of expedition to points intermediate to and north of Sacramento.

The sole protestant, Sacramento-Corning Freight Lines, Ltd., operates between Sacramento and Galt and the intermediate points of Florin and Elk Grove on Monday, Wednesday and Friday of each week, using a truck leased from May Feed and Fuel Company of Galt. Gene Antichi, President of the company, said that the operation is not profitable, though it has been conducted for many years. No other testimony was presented in support of the protest.

The new highway service proposed involves no change in rates, as applicant will transport property at the rates

of the express and freight carriers. The only change will be improvement in the method of service and the method appears to be demanded by shippers. The application will be granted.

Pacific Motor Trucking Company, a corporation, 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

Pacific Motor Trucking Company, a corporation, having made application as above entitled, a public hearing having been held and the matter having been duly submitted;

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment of automotive service for the transportation of property, in the custody of rail and express carriers between Lodi and Sacramento, and including Lodi and Sacramento, and not otherwise, via State Highway No. 99, with diversion therefrom over public highways to serve Elk Grove, Florin, Galt and Acampo and all stations of Southern Pacific Company between termini, as an extension and enlargement of the rights heretofore granted by Decision No. 26017, on Application No. 18892,

and Decisions Nos. 28027 and 28054, on Application No. 19713, and consolidated and merged therewith; and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefore be, and the same hereby is, granted to Pacific Motor Trucking Company, a corporation, 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 referred to in 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.

- (6) Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

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 11th day of January, 1937.

Walter H. Brown
Leon C. White
Frank R. Smith

COMMISSIONERS.