

Decision No. 29485**ORIGINAL**

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of	)	
NEVADA COUNTY TRUCKING COMPANY, a	)	
corporation, for a certificate of	)	
public convenience and necessity to	)	Application
transport concentrates and mining	)	No. 20918
supplies between Colfax and Nevada	)	
City.	)	

BY THE COMMISSION:

O P I N I O N

By this application Nevada County Trucking Company, a corporation, seeks a certificate of public convenience and necessity for the automotive transportation, as a highway common carrier, of concentrates and mining supplies only between Colfax and Nevada City via the main highway between termini including an 8 mile lateral right on each side of the main highway traversed and 8 miles beyond Nevada City. From Nevada City to Colfax (west bound) the traffic handled will be limited to concentrates from the mines in the area sought. From Colfax to Nevada City (east bound) mining supplies only as specifically set forth in Exhibit "A" and supplement thereto of the application will be transported. The proposed truck service is to be utilized as an auxiliary service to the facilities of Nevada County Narrow Gauge Railroad Company, whose line in general will be paralleled, and coordinated therewith. Applicant herein is a subsidiary of said Railroad Company. Service shall be available on demand for movements of concentrates and mining supplies in lots of five (5) tons or more. No other common carriers are affected.

In support of the instant application, it is alleged by applicant that there are several large mines in the territory proposed to be served; that these mines have a large output of concentrates which are transported to Colfax for shipment to smelters in California and elsewhere and that said mines also receive large shipments of mining supplies. Because of the regularity of movement between Colfax and Nevada City and the necessity for concurrence in common carrier tariffs at Colfax the possibility of operating under Radial Highway Common Carrier permits or Highway Contract Carrier permits, respectively, is precluded. The intermittent nature of the traffic movement, which at times is substantial and in other instances slight, does not permit of scheduled service. Hence the application for a certificate of public convenience and necessity for an "on demand" service by applicant between Colfax and Nevada City.

This appears to be a matter in which a public hearing is not necessary. The application will be granted.

Nevada County 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 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 Nevada County Trucking Company, a corporation, of an automotive service for the transportation of concentrates and mining supplies as a highway common carrier between Colfax and Nevada City via the main highway between termini and including an eight (8) mile lateral right on either side of highway traversed and to a point eight (8) miles beyond Nevada City on said main highway subject to the following restrictions:

1. The Westbound movement (Nevada City to Colfax) shall be limited to the transportation of concentrates from the mines in the territory authorized.
2. The Eastbound movement (Colfax to Nevada City) shall be limited to mining supplies named in Exhibit "A" and supplement thereto of the Application as Mill Reagents, Firebrick, Fire Clay, Starch, Cyanide, Carbide, Pipe, Rails, Grinding Balls, Blacksmith Coal, Coke, Machinery, Sheet Steel, Oxygen and Acetylene, Wire Nails, Lime, Concentrate Sacks, Mine Lubricants, Wire Rope and Cable, Electric Motors, Abrasive Wheels, Leather Belting, Conveyor Belts, Mine Cars, Air Hose, Wire Cloth, Zinc Bars, Rock Crusher Parts, Drill Steel, Drill Bits, Bar Iron.
3. Service to be available on demand for lots of five (5) tons or more.
4. Service to be auxiliary to and coordinated with the rail service of the Nevada County Narrow Gauge Railroad Company.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same is, hereby granted to Nevada County 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 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.

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 25<sup>th</sup> day of January, 1937.

Walter H. H. H.  
Leon A. H. H.  
Frank R. H. H.  
Ray & H. H.  
COMMISSIONERS.