

Decision No. 29396

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 enlargement  
of the operative rights between  
points on the California side of  
Lake Tahoe, acquired under authority  
granted by C.R.C. Decision No. 28366,  
to permit of the extension of such  
operation from Tahoe City to Auburn  
via Truckee.

**ORIGINAL**

Application No. 21067

In the Matter of the Application of  
PACIFIC MOTOR TRANSPORT COMPANY for  
a certificate of public convenience  
and necessity for the extension of  
its express operations to permit of  
service being afforded to all points  
on U. S. Highway No. 40 between  
Auburn and Truckee, and all points  
on the unnumbered highway between  
Truckee and Tahoe City.

H. W. Hobbs, for Pacific Motor Trucking Company  
and Pacific Motor Transport Company, Applicants.

Joe Saia, in propria persona, Protestant.

Oscar Schneider, for United Motor Transport,  
Interested Party.

Herstel Jones, Rainbow Tavern, Interested Party.

WAKEFIELD, Commissioner:

O P I N I O N

This is a joint application of Pacific Motor Trucking  
Company, a corporation, and Pacific Motor Transport Company, a  
corporation.

Pacific Motor Trucking Company seeks a certificate of  
public convenience and necessity to operate as a highway common  
carrier between Tahoe City, Truckee and Auburn and intermediate  
points as an extension and enlargement of its operating right

between Tahoe City and Lakeside and Fallen Leaf Lodge and intermediate points and between Tahoe City and Brockway and intermediate points, as acquired by Decision No. 28366, dated November 16, 1935, on Application No. 20528, and to be consolidated therewith. Applicant's proposal does not contemplate a through service between Auburn and Lake Tahoe points. Service is to be rendered daily except Sundays and holidays between Auburn and Colfax and intermediate points and service will be rendered Mondays, Wednesdays and Fridays between Colfax and Truckee and intermediate points from April 16th to October 16th inclusive and on Tuesdays and Fridays only from October 16th to April 15th inclusive. Daily service scheduled consists of one round trip leaving Auburn at 10 A.M. and arriving in Colfax at 11:30 A.M. with intermediate service on call, returning from Colfax at 4:00 P.M. with arrival time at Auburn set at 5:00 P.M. Service Colfax to Truckee is to be rendered on call with service to the intermediate points of Dutch Flat, Alta and Towle only rendered eastbound.

Applicant Pacific Motor Trucking Company makes a specific request for authority to operate as a highway common carrier for the purpose of transporting property for the general public under tariffs published in its own name together with the right to transport, as an underlying carrier, property in the custody of Southern Pacific Company, Pacific Motor Transport Company, Railway Express Agency, Inc. and any other carrier or carriers of the same class between the termini and all intermediate points sought in the application. Applicant proposes to operate over U. S. Highway No. 40 between Auburn and Truckee and the unnumbered highway between Truckee and Tahoe City with authority to perform store-door pickup and delivery service at and between all points mentioned and within such limits as are now or may hereinafter be provided in its own tariffs or in the rail or express tariffs of the carriers whose traffic will be handled by Pacific Motor Trucking Company.

Pacific Motor Transport Company requests a certificate of public convenience and necessity to extend its operation as an express corporation over the highways between Auburn, Truckee and Tahoe City and all intermediate points at tariff rates to correspond with its existing tariff rates to, from and between the most nearly opposite rail stations in the territory.

After public hearings in Truckee and Colfax on Tuesday, April 6th and Wednesday April 7th, respectively, the matters were submitted and are now ready for decision.

Pacific Motor Trucking Company's general proposal is for a co-ordinated rail and truck service and Pacific Motor Transport Company desires co-extension of its express corporation rights therewith. Testimony, introduced through J. G. Coburn, District Manager for both Pacific Motor Trucking and Pacific Motor Transport Company, dealt with the combined services of the two applicants. He testified that the rail line, particularly between Auburn and Truckee, has found itself of late unable to satisfactorily meet all local transportation demands on traffic moving from Sacramento and San Francisco Bay District as the volume of traffic moving to and from communities in this district is not such as to justify expeditious local train service; such local traffic moves in peddler cars which are handled in local freight trains and even if such local service were expedited the topography of the country is such that the transportation of freight between railroad stations and communities which have developed along the highways presents operating difficulties which cannot be overcome by rail service. Specifically freight moving to points intermediate to Auburn and Truckee is moved by rail and discharged at rail depots. The establishment of non-agency depots at several of these intermediate points has necessitated prepayment of all shipments so moving and consignees are also required to come to the depot and pick up their shipments. As consignees, in many instances, are located a considerable

distance from the rail depots they are subjected to delay and inconvenience by this method of handling shipments. Under applicants' proposal, freight would be brought into Auburn by rail and there transferred to and transported by truck into the intermediate territory for distribution with store-door pickup and delivery available to consignees. Incidentally, the fact that the truck operators would collect for shipments would eliminate the necessity for prepayment of all shipments and would afford consignees the opportunity to pay on delivery of goods.

With respect to the Truckee-Lake Tahoe District, freight and express service has also suffered from operating conditions engendered by topographic conditions and terminal facilities. Under present conditions freight from Sacramento and San Francisco Bay points is handled into Truckee by freight train and thence to Tahoe City by mixed train. This provided first-day from Sacramento and second-day from San Francisco service to points around the Lake. Failure to connect with the mixed train, particularly during the fruit season, necessitated a return to Truckee by the train and an extra trip back to Tahoe City, or the handling to Tahoe City by extra freight train or from Truckee to Tahoe City by Pacific Greyhound Lines which has an express right limited to 100 pounds except for property moving in custody of Railway Express Agency, Inc. With this type of operation the loading and dispatching of trucks around the Lake was often delayed.

Applicants' proposal, if the authority herein sought is granted, involves the handling of San Francisco Bay District and Sacramento traffic to Truckee by rail and the transfer there of L.C.L. traffic to trucks which will operate to Tahoe City and points around Lake Tahoe. This plan applicant alleges will afford first day delivery of traffic from San Francisco Bay District and from Sacramento and on a much more dependable schedule than it has been possible to maintain heretofore. Applicant further testified to the rapid growth

of the territory around Lake Tahoe and estimated that there would be from two to three hundred tons of freight per month during the summer season. In addition there was estimated to be some \$5,000 a year in transportation expenditures throughout the whole district proposed to be served.

Testimony of eleven public witnesses was introduced into the record by applicants in support of their proposal. All of the witnesses testified as to the convenience of this service and nine emphatically endorsed the proposal as convenient, necessary and capable of aiding them in effecting economies in transportation expenditures. General transportation requirements of these witnesses averaged from two to five times a week and among them were four general merchandise store owners, Newell F. Stearns, Oswald Marson, O. E. Williams and J. L. Scarborough; a retail druggist, Sam Laing; two garage owners, John McCleary and Robert Kauffman; and a mine operator, Walter Fryor. Three merchants and the druggist were from Colfax, the mine operator from the Rawhide Mine near Baxters Camp, and the fourth merchant had his store in Weimar. Harvey Johnson of the Weimar Joint Sanitarium which feeds and houses 450 patients and 150 employees testified in favor of applicants' proposal also.

Protest to the granting of the application was made by Joe Saia who operates between Sacramento and Truckee and Tahoe City as a highway contract carrier under permit issued by the Railroad Commission. He testified that he had approximately fifteen contracts, two of which were written. He conducts a year-round operation three times weekly in the summer and twice weekly in the winter. He also has a radial highway common carriers permit under which he makes occasional hauls as far as Los Angeles. Andrew Jackson, Gold Run Store, George A. Novak, Monte Vista Inn, and Elmer M. Baxter, Baxters Camp, testified on behalf of Saia, said they had used his service, and indicated their intention to continue to do so. Oscar Jones, operator of Soda Springs Hotel, and Herstel Jones,

operator of Rainbow Tavern, had also used the Saia Truck Service and appeared satisfied with service out of Sacramento, but testified that service out of San Francisco was not satisfactory and that the service offered by applicants' proposal would be to their advantage.

On the record applicants have made a definite showing of public convenience and necessity for the service they propose. As a highway contract carrier, Saia's protest against the establishment of a highway common carrier service, which he himself has no authority to perform and which he has definitely passed by in favor of the more restricted contract operation, should not be permitted to mitigate against the well founded needs of the communities involved particularly in view of failure of protestant to show that he could, under his limited authority, serve the needs of this territory. The application should be granted.

Pacific Motor Trucking Company and Pacific Motor Transport Company are 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.

I recommend the following form of order:

O R D E R

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY  
DECLARES that public convenience and necessity require the operation  
by Pacific Motor Trucking Company of an automotive service for the  
transportation of property as a highway common carrier as such is  
defined in Section 2-3/4 of the Public Utilities Act between,

- a. Tahoe City and Truckee and all intermediate points via the State Highway between termini.
- b. Truckee and Auburn and all intermediate points via U. S. Highway No. 40.

as an extension and enlargement of applicant's existing right between Tahoe City and Lakeside and Fallen Leaf Lodge and intermediate points and between Tahoe City and Brockway and intermediate points as acquired by Decision No. 28366, dated November 16, 1935, and to be consolidated therewith subject to the following conditions:

1. The authority herein granted specifically includes the right to transport freight in the custody of Southern Pacific Company, Railway Express Agency, Inc., Pacific Motor Transport Company and any other carrier or carriers of the same class between termini and all intermediate points.
2. Applicant shall file in duplicate with the Commission copies of contracts whenever entered into under the underlying carrier status of carrier as herein set forth.
3. No through service may be rendered between Auburn and points on Lake Tahoe beyond Tahoe City.
4. Applicant is authorized to perform store-door pickup and delivery at and between all points named in its application as are now or may hereinafter be provided in its own tariffs or in the rail or express tariffs of those carriers whose traffic may be handled by Pacific Motor Trucking Company.

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 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 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.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the extension by Pacific Motor Transport Company of its operations as an express corporation as such is defined in Section 2 (k) of the Public Utilities Act so as to permit of service between,

- a. Auburn and Truckee and all intermediate points via U. S. Highway No. 40.
- b. Truckee and Tahoe City and all intermediate points via the State Highway between termini.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same is, hereby granted to Pacific Motor Transport 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 conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.

3. 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.



For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this 26<sup>th</sup> day of April, 1937.

W. L. ...  
Leon ...  
Frank ...  
...  
...  
Commissioners.