

Decision No. 30688

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 PACIFIC MOTOR TRUCKING COMPANY )  
 for certificate of public convenience )  
 and necessity for the transportation )  
 of property by motor truck for other )  
 common carriers between Mojave and )  
 Saugus and intermediate points. )

**ORIGINAL**

Application No. 20297

H. W. Hobbs, for Applicant.

John F. McNeil, for F. F. Sullivan (Red Line) and  
 R. V. Hardie (Western Truck Lines, Ltd.),  
 Protestants.

Lewis Clark for Pacific Interurban Transport Co.,  
 Protestant.

BY THE COMMISSION:

OPINION

Applicant seeks a certificate of public convenience and necessity authorizing the establishment of a trucking service between Mojave and Saugus and intermediate points, via Rosamond, Lancaster and Palmdale, limited to traffic consigned to Southern Pacific Company, Pacific Motor Transport Company, Railway Express Agency, Inc., and any other carrier using rail facilities.

A public hearing thereon was conducted by Examiner W. P. Williams at Lancaster at which time the matter was duly submitted and is now ready for decision.

Southern Pacific Company now serves the territory between Saugus and Mojave by rail. Traffic moving from either north or south, destined to the territory herein involved, is

transported to Bakersfield and thence via local l.c.l. freight from Bakersfield to said territory. Due to this circuitous method of operation, shipments from Los Angeles require approximately sixty-two hours and shipments from points north of Bakersfield require forty-four hours.

Applicant proposes to operate motor truck service between Mojave and Saugus and intermediate points in lieu of the present rail service. Shipments under the proposed plan, from both north and south, would be deposited at Mojave and then distributed southward to all points between Mojave and Saugus, a distance of sixty-nine miles. The proposed schedule provides for one round trip daily, except Sundays and Holidays, between Mojave and Palmdale, and "on call" to points between Palmdale and Saugus. Delivery to Lancaster and Palmdale, the largest communities, would be between 10 and 11 o'clock each morning. The estimated daily quantity for all points is 2.4 tons. The annual truck mileage is estimated at 26,200. The vehicle to be used is a small truck, maximum capacity 5 tons, costing \$1,250. The present pickup and delivery in Lancaster, provided by a local drayman, will be continued.

Neither Mojave nor Saugus will be affected as each already has l.c.l. pickup and delivery. The intermediate points, numbering 18, are all unincorporated and only Lancaster and Palmdale, 8.3 miles apart, are of considerable population and they are the only railway agency stations.

The estimated annual cost of rendering the substituted truck service is \$3,866 as compared to \$4,114 a year for the present l.c.l. service by rail or an annual saving of \$248.

The proposed truck service would reduce the time in transit of more than two days to approximately seventeen hours.

Applicant alleges that the primary purpose of the proposed service is not one to effect economies in operation but is to afford those shippers now using rail facilities an expedited transportation service for which many requests have been received.

The record shows that several shippers as well as certain Chambers of Commerce in the area herein involved have, on frequent occasions, requested Southern Pacific Company to improve its service.

Mr. P. W. Barnard, of the Research Department of Southern Pacific, testified that if improved rail service were to be effected so as to provide overnight delivery an added expense of \$70 daily, or \$21,000 a year would be incurred. The traffic would not justify the expense of such improvement, he said, and the economical truck operation was resorted to. In justification of this conclusion he pointed out that a check of l.c.l. traffic showed that 3,987 pounds daily moved from Los Angeles to the points involved and 852 pounds daily from the North, a total of 4,839 pounds.

H. C. Loft, publisher of the South Antelope Valley Press, Palmdale, and Vice President of the Palmdale Chamber of Commerce, presented a resolution adopted by the Chamber (Exhibit No. 3) urging approval of "this improved service" and "with the understanding that all truck tonnage handled shall be credited to the respective stations served."

J. W. Smith of Lancaster, representing A. C. Meyer & Co., farm implement dealers, favored the application because it would

expedite shipments from Los Angeles, St. Louis, Moline, Illinois, Kansas City, San Francisco and Stockton by advancing delivery one day.

Charles E. Beyer of Rosamond, who manufactures oil burners at a plant two miles west of Rosamond, also approved the proposed improvement for the same reason, expedition, on the ground that he has now to deliver and receive shipments at Lancaster or Mojave.

Edward Cardwell, Lancaster manager of J. C. Penney Company, dry goods, testified that this Company receives freight from Los Angeles and Eastern points. This traffic has been transported from Los Angeles to Lancaster by protestant, Red Line, and such service has been satisfactory.

Robert A. Wilkin, Palmdale druggist, receives freight wholly from Los Angeles, he testified. He gets rail freight twice monthly. All other freight service, practically daily, is performed by protestant Red Line. Wilkin said he would not use rail truck service if established.

For protestants, Robert C. Hütte, Lancaster wholesale hay dealer, also a director of the Chamber of Commerce, presented a resolution, (Exhibit No. 5), unanimously adopted by the directors of that body, declaring "that the Chamber go on record against the granting of such franchise for the reason stated, that it is the belief of this Chamber that it will not improve service already rendered to this community." In explanation of this action Hütte said the directors feared the establishment of the proposed service would reduce Red Line truck revenues to a point where it would not be able to continue. F. F. Sullivan, owner of Red Line, is a director of the Chamber and participated in the action.

Other Lancaster witnesses called by protestants were E. A. Kneip, merchandise and hardware; W. M. Sawyer, fruits and vegetables, Leonard A. Grace, meats, and Paul B. Hubbard, newspaper publisher (who divides his freight between rail and truck) and each of whom testified that the Red Line truck service is adequate. They emphasized the early morning delivery of the truck carrier, approximately 7 to 8 a.m. as superior to the proposed service. In addition it was stipulated ten other Lancaster business men, who were present at the hearing, and who were interrogated, would testify similarly.

F. F. Sullivan, proprietor of Red Line Express, which operates between Los Angeles and Lancaster and certain intermediate points, testified that he has equipment adequate for the tonnage he now hauls and the rail tonnage indicated for the route. He does not serve North of Lancaster. An Application by this carrier to extend service to Mojave and Tehachapi was denied by the Commission. <sup>(1)</sup> Protestant has three trucks and one trailer in service; one of the trucks is refrigerated and is used, particularly during the warm season, for the transportation of perishables.

Pacific Interurban Transportation Company, protestant herein, holds a certificate of public convenience and necessity to operate as a highway common carrier between Los Angeles and Randsburg via Mojave, however, said certificate contains a restriction prohibiting the rendition of service to any point between Los Angeles and Mojave, including Mojave. By Decision No. 28347, dated November 12, 1935, said certificate was amended so as to permit transportation between Los Angeles and the area west of

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(1)  
Decision 26191, dated July 31, 1933, on Application No. 18669.

Rosamond, Gloster, Fleta and Mojave, provided, that such service shall not be rendered to nor within one mile of the railroad station of Rosamond, Fleta, Gloster and Mojave and that said service shall be confined to points one mile or more west of the state highway between Rosamond and Mojave and not more than ten miles therefrom.

Morris Rose, dispatcher of Pacific Interurban Transportation Company, testified that this carrier has several trucks of 2½-ton capacity available for use in the area west of the Southern Pacific tracks, between Rosamond and Mojave, and can render adequate service to witness Beyer.

Western Truck Lines, Ltd., have no rights to serve locally between Los Angeles and Mojave.

The record indicates that there is no highway common carrier operation between Lancaster and Mojave, a distance of twenty-three miles.

After a careful review of the record in this proceeding, it would appear that practically all of the traffic moving into or out of the territory herein involved, is destined to or originates at points south of Saugus or north of Mojave and that public convenience and necessity would be subserved by the granting of a certificate to Pacific Motor Trucking Company between Saugus and Mojave, restricted so as to prohibit the transportation of any traffic having both origin and destination in the area between Saugus and Lancaster, both points inclusive, except traffic which originated at points south and west of Saugus.

Pacific Motor 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 Pacific Motor Trucking Company, a corporation, 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 Saugus and Mojave and intermediate points limited to traffic consigned to Southern Pacific Company, Pacific Motor Transport Company, Railway Express Agency, Inc., and other carriers of like class and subject to the following restriction:

No traffic having both origin and destination in the area between Saugus and Lancaster, both points inclusive, except traffic which originates at points south and west of Saugus, may be transported.

Applicant is also authorized to perform store-door pickup and delivery service at points herein named, subject to the restriction herein established and where provided for under existing or future tariffs of carriers whose traffic will be handled by applicant.

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 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 7<sup>th</sup> day of September, 1937.

Walter H. ...  
Leon ...

Ray C. Wakefield  
Ray L. ...  
COMMISSIONERS.