

Decision No. 31200

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THE RIVER LINES (The California)
Transportation Company and Sacramento)
& San Joaquin River Lines, Inc.) for)
a certificate of public convenience)
and necessity authorizing a highway)
common carrier truck service between)
San Francisco Bay points and)
Sacramento.)

Application No. 20785

MCCUTCHEEN, OLNEY, MANNON & GREENE, by F. W. MIELKE,
for Applicant;

A. S. WILLIAMS, for Southern Pacific Company,
Pacific Motor Transport Company, and
Pacific Motor Trucking Company,
Protestants;

JAS. J. BROZ and HAROLD FRASHER, for Valley
Express Company, Protestant;

L. N. BRADSHAW and J. L. AMOS, JR., for Western
Pacific Railroad Co. and Sacramento
Northern Railway Co., Protestants;

FITZGERALD AMES, W. E. HIBBETT and J. E. MONRO,
for Sacramento Motor Transport,
Protestant;

CARL R. SCHULZ, for Chichester Transportation
Company, Interested Party;

W. C. STONE, for Sacramento Chamber of Commerce,
Interested Party;

L. R. KEITH, for California Packing Corporation,
Interested Party.

BY THE COMMISSION:

O P I N I O N

By its application, as amended, The River Lines, ⁽¹⁾ which

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Pursuant to authority granted by Decisions Nos. 24420 and 28853,
applicants The California Transportation Company and Sacramento

is engaged as a common carrier in the operation of vessels over the inland waters of this State, seeks a certificate of public convenience and necessity authorizing it to establish and conduct an auxiliary service by motor vehicle, supplemental to its vessel service, for the transportation of property, as a highway common carrier, between San Francisco, Oakland, and Berkeley, respectively, on the one hand, and Sacramento, on the other hand. The granting of this application was protested by Southern Pacific Company, Pacific Motor Transport Company, Pacific Motor Trucking Company, Sacramento Northern Railway, and Sacramento Motor Transport. Chichester Transportation Company, California Packing Corporation and Sacramento Chamber of Commerce appeared as interested parties.

Public hearings were had before Examiner Austin at Sacramento and San Francisco, when evidence was offered, the matter submitted, and it is now ready for decision.

For many years applicant, The River Lines, its constituent companies and their predecessors, have been engaged in the transportation of passengers and property over the Sacramento and the San Joaquin Rivers, and more particularly between San Francisco and Sacramento. Between these points vessels are operated regularly, the Delta King and the Delta Queen providing a daily over-night service between the terminals, while other vessels serve the intermediate points. Freight originating at or destined to Oakland and Berkeley is brought to San Francisco by switching boats or by the trucks of Berkeley Transportation Company, with whom applicant has established joint rates. Under certificates granted by this

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& San Joaquin River Lines, Inc., California corporations, respectively, are engaged, under the name and style of The River Lines, in the transportation of freight by water. For brevity, applicants collectively will be referred to as The River Lines.

Commission, applicant operates an auxiliary highway common carrier service between Pittsburg, on the one hand, and Martínez and Antioch, on the other; between Martínez and Benicia; between Sacramento and Sidd's Landing via Colusa; and between Río Vista and Sacramento and intermediate landings. Traffic destined to Río Vista and points north is handled by vessel to Río Vista, where it is transferred to trucks.

A certificate is sought herein, so applicant asserts, primarily to permit the operation of a daily overnight service affording early morning delivery of freight at Sacramento. There is no assurance, it contends, that such a service can now be provided through its present facilities.

During certain seasons, vessels are delayed by fogs and adverse tides. Since the Delta King and the Delta Queen must leave promptly on schedule at 6:30 P.M. to accommodate their passengers, frequently freight is left behind, particularly where pickup trucks, because of traffic congestion, cannot reach the dock before 5:45 P.M., the established closing hour. From Oakland and Berkeley, a trucking service is sought primarily to overcome the disadvantages incidental to the present early closing hour for the receipt of freight. Since traffic originating there must be picked up by a switching boat or by the trucks of Berkeley Transportation Company, transported across the Bay, and transferred to the Sacramento steamer, applicant has found it necessary to establish a closing hour in mid-afternoon for the receipt of freight, i.e., at 3:30 P.M. As much of the tonnage is not ready for shipment until later, applicant has been compelled to forego a large share of this traffic.

From Oakland and Berkeley trucks will operate via Vallejo and Davis to Sacramento, using the American Canyon route beyond Vallejo, optionally. From San Francisco, trucks will cross via the Bay Bridge or the Southern Pacific-Golden Gate Ferries, and follow the same route beyond.

The following time schedules will be observed, viz.:

Between San Francisco and Sacramento

7:00 P.M.	Leave San Francisco,	Arrive 2:00 P.M.
12:00 M.	Arrive Sacramento,	Leave 9:00 A.M.

Between Oakland-Berkeley and Sacramento

7:00 P.M.	Leave Oakland,	Arrive 2:45 P.M.
8:00 P.M.	Leave Berkeley,	Arrive 1:30 P.M.
11:30 P.M.	Arrive Sacramento,	Leave 10:00 A.M.

Should the traffic warrant, additional schedules will be supplied.

To provide this service, applicant will operate over each route one six-wheel truck and six-wheel trailer with a maximum load capacity of 20 tons. It now has available equipment sufficient to furnish any necessary stand-by service. The current tariffs of The River Lines will be observed; no distinct tariff will be filed applying to the truck service alone.

Quite frequently throughout the winter season, the record indicates, the progress of the steamers is retarded by heavy fogs, including tule fogs, adverse tides, and high water. Though the schedule contemplates departure from San Francisco at 6:30 P.M. and arrival at Sacramento at 5:30 A.M. on the following day, delays of (2) from two to three hours are commonly encountered. From a chart depicting the hours of arrival at Sacramento, as well as the time of departure from San Francisco, during the year beginning June 1, 1933,

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Exhibit 8, Tr. p. 170.

said to be a representative period, it appears that these delays are generally experienced during the months of November, December, and January, the steamers often arriving during that period after 7:00 A.M. and sometimes as late as 8:30 A.M. Frequently throughout other seasons, the arrival time has been delayed beyond 7:00 A.M. These late arrivals have occurred approximately 125 times throughout the course of the year. Ordinarily, applicant is able to anticipate, before the departure of the boat from San Francisco, any delays which may be due to these conditions.

At San Francisco, where applicant conducts a motor truck pickup and delivery service, it is essential that freight be delivered at the dock not later than 5:45 P.M. Because of congestion encountered by the pickup trucks in traffic and at the loading platforms, it frequently is impossible for them to reach the dock before the closing hour. Consequently, freight is often left behind. Although sailings are sometimes delayed, this must be avoided because of complaints from passengers; to serve them satisfactorily, schedules must be observed.

At Oakland and Berkeley, both now served by pickup boats and trucks, the closing hour is 3:30 P.M. Since much of the traffic is not available for delivery to a carrier at so early an hour, applicant's ability to compete with other carriers, who are in a position to accept freight as late as 5:45 P.M., has been materially curtailed. To overcome this disability, a truck service will be established, operating approximately 306 days a year. It is estimated that part of the traffic tendered before the present closing hour, amounting to about half the tonnage originating at these points, will continue to move by vessel; the remainder will go by truck. Though applicant does not now conduct a pickup and

delivery service in these communities, its establishment is contemplated. But this is not in issue here.

These delays, it appears, have occasioned many complaints on the part of shippers and receivers of freight at San Francisco Bay points and at Sacramento, and have resulted in a considerable loss of traffic.

The establishment of this trucking service, so the record shows, is essential to protect applicant's existing water service. Because of its failure to provide early morning delivery at Sacramento for shipments requiring expeditious handling, applicant has lost to other carriers some of the water-borne traffic which does not require such speedy delivery. It is therefore regarded as essential that an auxiliary service of this character be provided, to permit applicant to retain the traffic it now enjoys. The trucks are not designed to replace the steamers; rather, this is in the nature of an auxiliary or supplementary service.

During recent years applicant's steamer service occasionally has been interrupted by strikes, some of them of long duration. Should such a condition recur, applicant will undertake to provide an emergency trucking service. Such a situation, however, cannot reasonably be anticipated; it can best be dealt with whenever it arises.

From Sacramento the trucking service will be used principally for handling emergency shipments of canned goods, tendered too late for transportation by applicant's vessels, destined to offshore boats in San Francisco Bay. Undoubtedly, some of this will be interstate or foreign commerce. For this traffic, trucks will be used only when they are available at Sacramento; otherwise,

these shipments will move by vessel. It is anticipated that frequently the trucks will return empty to San Francisco and Oakland.

Applicant's local pickup and delivery service at Sacramento is conducted by Senf Drayage Company, under contract with applicant. From the testimony of Henry A. Senf, a member of this firm, and also that of applicant's representatives, it appears that ordinary local deliveries in Sacramento can be completed within one or two hours at most from the time freight is available at applicant's dock. Some trucks, limited to a few large shipments, may be loaded quickly; others, containing many small l.c.l. shipments, require as much as an hour. Freight requiring expeditious delivery is disposed of first; the trucks then return for less urgent shipments.

If freight is available at the dock by 7:00 A.M., which it rarely is, the trucks can be loaded and the freight delivered by 8:30 to 9:00 A.M. Since at least an hour is required for unloading freight from the boat, and sorting and piling it on the dock, freight ordinarily will not be ready for the delivery trucks at so early an hour unless the boat has arrived by 6:00 A.M. That frequently the boat is late, particularly during the winter months, is an established fact.

Both carload and less-than-carload traffic will be handled on the trucks. The average daily carload movement to Sacramento is estimated at 204 tons, divided equally between that originating at San Francisco and intercoastal freight delivered to applicant by its water connections. To Sacramento, the local less-than-carload traffic amounts to approximately 133 tons daily or 40,000 tons a year; in addition, about 3,000 tons of inter-

coastal l.c.l. traffic is handled annually. Of this 133 tons, approximately 125 tons originates in San Francisco and the remainder in Oakland and Berkeley. Of the San Francisco traffic, approximately 60 tons daily is picked up by the local trucks. Formerly, the l.c.l. tonnage originating at Oakland and Berkeley averaged as high as 30 tons daily; since 1932 it has diminished substantially. Of the l.c.l. tonnage, it is estimated that not over 10%, which requires expedited handling, will move by truck. But traffic of each type - that requiring as well as that which does not require expedited delivery - is frequently consigned to the same shippers. The truck-borne traffic will average 30 tons daily, divided about equally between the San Francisco and the Oakland-Berkeley operations. At present all the less-than-carload shipments requiring expedited delivery are transported on the steamers Delta King and Delta Queen; in addition, however, they handle a considerable volume of carload traffic.

Studies were offered ⁽³⁾ relating to the cost of conducting the proposed truck service from San Francisco and Oakland, respectively, and the combined turn-around boat service from San Francisco to Rio Vista and truck service from Rio Vista to Sacramento. The estimated cost of the proposed truck operations was predicated upon the elements of cost developed by Mr. Fred F. Chesnut (Senior Engineer in the Commission's Transportation Department), in Exhibit A-1, Case 4088-A, received in this record by reference. In respect to the Rio Vista boat and truck operations, actual costs were used. Assuming that in the San Francisco trucking operation 200 trips would be made annually, handling 4,000 tons, with a load factor of 50%, it is estimated the operating costs will aggregate \$14,121.13, and the gross revenue, \$16,000.00.

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Exhibit 11, Tr. p. 175

In the Oakland operation, assuming there will be 306 trips a year handling a total of 6120 tons under a load factor of 50%, the costs are estimated at \$14,808.81, and the gross revenue, \$24,480.00. In each instance the revenue is based on an average rate of \$4.00 per ton, designed to cover only the terminal to terminal proportion of the store-door rate. The cost of conducting the combined turn-around boat and truck service via Rio Vista, viz., \$47,498.53, exceeds by \$18,568.59 the cost of operating both the San Francisco and the Oakland truck services, viz., \$28,929.94. The establishment of the proposed truck service from both San Francisco and Oakland, applicant conceded, would effect no economies in the operation of the existing vessel service; the cost of truck operations must be added to that currently incurred in connection with the regular vessel service of The River Lines.

In the solicitation of traffic, full advantage will be taken, so applicant admitted, of any improvement in its service. It expects to develop new tonnage in Oakland, thus recovering some of the business it formerly enjoyed. The total available tonnage was not shown to be insufficient to support the transportation agencies now occupying the field.

Because of the delays encountered by the steamers, applicant has not been able to assure a punctual and timely delivery of traffic at Sacramento to connecting carriers. The establishment of the proposed truck service, however, will overcome this handicap. No such connecting carrier was named specifically, nor does the application expressly seek the establishment of joint rates of this character.

Emphasizing the possibility of providing, through the existing Rio Vista turn-around boat and truck service, an auxiliary service

adequate for applicant's needs; protestants contend that applicant would thus be able to afford prompt delivery at Sacramento of less-than-carload traffic on those occasions when the through vessels are delayed by fog and tides. At present, freight is transported by vessel between San Francisco and Rio Vista, where it is transferred to a truck and distributed at river landings. Because of delays encountered in picking up cargo around the Bay, the time of departure varies from 6:30 to 11:00 P.M., a circumstance which would tend to drive away passenger traffic. The time of arrival at Rio Vista is uncertain. Though no definite schedule has been provided, the operation usually requires six hours, unless the boat is delayed by stops en route to receive freight, or by weather conditions. Frequently, adverse tides must be overcome. Approximately one hour is required to unload at Rio Vista and transfer to the truck the freight handled in this operation, which ordinarily averages 15 tons daily. Usually the truck leaves Rio Vista around 7:00 A.M., distributing freight at river points and occasionally handling Sacramento carload traffic not requiring expeditious delivery. On the return trip, it ordinarily handles canned goods consigned to vessels engaged in intercoastal traffic.

By this combined boat and truck service, applicant asserts, early delivery at Sacramento of overnight shipments of less-than-carload freight cannot be assured. The hour of departure from San Francisco is too uncertain, and delays are encountered en route. For the freight to reach Sacramento in time for early delivery, it is essential that the boat arrive at Rio Vista not later than 1:00 A.M., an objective rarely attained, as shown by the log covering four months' operations in 1936, introduced in evidence.⁽⁴⁾ This

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Exhibit 19, Tr. p. 441

could be accomplished only by leaving San Francisco at an earlier hour and by avoiding all intermediate stops. Were a single truck used, it would be necessary to expedite the movement to Sacramento and delay deliveries at the local river points until the return trip, thus ignoring the requirements and needs of these communities. Other trucks would be necessary, as well as a faster boat, thereby substantially increasing the operating expenses. It is not feasible to stop the Delta King and the Delta Queen at Rio Vista to transfer freight; when applicant undertook to do so, experimentally, the ensuing delays caused too many complaints from passengers. Moreover, as these steamers are not equipped with elevators, the cargo cannot be unloaded in flats, but must be trucked from the vessels by hand.

In support of its proposal, applicant called representatives of 11 shippers engaged in business in Sacramento. Generally speaking, the witnesses embraced wholesale drug and liquor, paint, paper, and hardware dealers, a jobber and manufacturer of pipe, dealers in tractors, implements, heavy machinery, and auto parts and accessories, a canner and distributor of food products, a general department store, and retail dealers in furniture and ladies' wearing apparel. All of them shipped regularly over The River Lines from San Francisco, and some from Oakland, their tonnage being quite substantial and moving regularly and frequently. Part of their shipments, handled by applicant, though not all of them, require expeditious overnight delivery at Sacramento; this is due to the necessity of replacing their stocks, and of meeting the demands of customers. Because of delays in the arrival of the steamer, due to fog, tides, and weather conditions, their freight, so they stated, now frequently

arrives too late, thereby causing great inconvenience. Were an auxiliary trucking operation established as proposed, thus obviating these delays, applicant's service would better meet their needs. Some testified that since they desired to use as few transportation agencies as possible, thus centralizing and concentrating the handling of their freight, the establishment of a trucking service providing early delivery of urgently needed merchandise would enable them to continue using The River Lines for the transportation of substantial tonnage not requiring such expeditious movement. Two of them voiced their approval of added competition, believing this would have a tendency to improve the service. One shipper emphasized the possibility of carload shipments being divided so that that portion requiring early delivery would move by truck, while the remainder would be transported by vessel. His impression that this could be accomplished under carload rates was negatived by applicant's president, who testified that carload rates could not be applied upon shipments of this character. Many shippers expressed the need for preserving water transportation on the Sacramento River so that Sacramento would continue to receive the benefit of terminal rates upon intercoastal traffic. This privilege, they explained, was of vital importance to Sacramento distributors and jobbers. To retain these benefits, they favored the adoption of such improvements as would permit applicant to conduct its service more economically. Their testimony, corroborating that of applicant's representatives, indicates that lately shippers have become more exacting in their requirements for prompt and early delivery of less-than-carload traffic.

Great stress was laid upon the convenience flowing from applicant's use of the so-called "flat." This is in the nature of a skid platform about 5½ feet square, standing about a foot above

the ground and supported by four legs. Each flat supports one ton of cargo; it is utilized for both carload and less-than-carload shipments. By means of gasoline-driven lift trucks, the flat is lifted so it clears the floor, is transported from the boat to the dock, and thence to the customer's warehouse, where the freight is unloaded. Because of the saving in time and expense, the shippers unanimously favored its retention. Flats, so Mr. Senf, the operator of the Sacramento pickup and delivery system, testified, are quite frequently loaded on trucks. However, not all of the freight is delivered on flats; much of the traffic moving on them is available for delivery in this form at the dock. Obviously, this method of handling freight is distinctly advantageous to the shippers.

Emphasizing the importance of adequate transportation, particularly in its relation to the industrial development of Sacramento and the surrounding territory, Mr. W. G. Stone, Manager of the Transportation and Industrial Department of the Sacramento Chamber of Commerce, stated it was the policy of the Chamber to preserve all forms of transportation and to support all projects designed to effect improved or more efficient service. The preservation of water transportation, he said, was important to Sacramento, particularly because of the advantages accruing from terminal rates upon water-borne traffic moving from the Atlantic coast. To preserve these advantages, The River Lines should be permitted to take advantage of all efficiencies in operation designed to improve its service. In the past it has improved its facilities and has pioneered the use of the skid platform, or flat, thus assuring greater dispatch in the handling of freight. There is a necessity, he stated, for the establishment of an alternate or auxiliary service, which would permit earlier delivery at

Sacramento of overnight shipments, a situation now requiring correction, since applicant's service was defective in this respect. In his judgment, any such improvement was in the public interest.

Some apprehension was expressed by the protestants that were this certificate granted, applicant would eventually abandon its operations as a water carrier and limit itself to the performance of a highway common carrier service. To set at rest these fears, applicant declared that the certificate sought was merely to permit it to render a service complementary to its water carrier operations; it was not designed to substitute trucking for vessel service. In this connection, applicant pointed to the fact that the tonnage moving by truck would be small in proportion to the entire volume of traffic, most of which would continue to move by water; it also called attention to the substantial amount now invested in vessels. If the operative right sought were granted, it would never be transferred, so applicant stated, independently of the sale or transfer of the entire water operative rights.

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During the course of the hearing, applicant stipulated that the purpose of the application was to substitute motor trucks in lieu of boats, to be operated, at the carrier's convenience, between the applicant's docks at San Francisco, Oakland, and Berkeley, on the one hand, and Sacramento, on the other hand, solely to better applicant's present service; that the physical truck service contemplated would be no greater than the service now physically performed by applicant's boats between these points; and that any franchise, when granted, would be co-existent with the current boat operations of The River Lines between these points.

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Tr. pp. 223, 224.

From this stipulation it appears that applicant neither seeks nor can it obtain, under this application, an operative right which would permit it to conduct any service as a highway common carrier, independently of and distinct from its operative right to engage in business as a water carrier. Any trucking right which may be granted would be indissolubly linked to the water service; it would be merely an auxiliary or supplementary operation.

On behalf of the protestants, a showing was made describing the character of their operations. Also, public witnesses were called, who expressed their satisfaction with the existing service.

Southern Pacific Company operates a special train known as "The Merchant," leaving Oakland Pier at 10:00 P.M. and arriving at Sacramento at 12:30 A.M. On this train are handled daily approximately seven carloads of l.c.l. freight originating at San Francisco, and five cars originating in the East Bay section. Most of this moves under Pacific Motor Transport billing. To Sacramento itself the volume handled daily averages 70 tons from San Francisco and 40 tons from Oakland and Berkeley. All of this is available for early morning delivery. Carload freight from San Francisco and the East Bay, handled on another train, viz., first 476, is spotted at Sacramento some time before 7:00 A.M.

For l.c.l. freight, both the Western Pacific Railroad Company and the Sacramento Northern Railway Company provide early morning delivery, including store-door pickup and delivery service at Sacramento.

Several schedules daily are operated between San Francisco Bay points and Sacramento by Railway Express Agency over the passenger trains of the Southern Pacific, the Western Pacific, and

the Sacramento Northern, and some over the stages of the Pacific Greyhound lines. At Sacramento, this carrier conducts a comprehensive pickup and delivery service. On request, early delivery will be accorded rush shipments.

At San Francisco, Pacific Motor Transport Company operates a fleet of seventy trucks, and at Oakland, sixty trucks, engaged in pickup and delivery service, handling traffic destined to all points which it serves, including Sacramento. At San Francisco, the closing hour for the receipt of freight is 5:45 P.M.; shipments will not be received later, except in case of emergency. Rigid enforcement of this rule has been found necessary to permit trains to leave on time.

Deliveries are performed at Sacramento through a local drayman operating under contract with Pacific Motor Transport Company. For this service, 21 trucks are used, ordinarily, additional equipment being available when necessary. The trucks usually leave the freight house by 7:45 A.M.; though the freight arrives shortly after midnight, it has not been found necessary to commence deliveries at an earlier hour. Deliveries usually fall within three categories, viz., first, those requiring expedited handling, including perishable products; second, the general run of freight destined to points in the business district; and third, traffic as to which expeditious delivery is neither desired nor requested. When prompt delivery has been requested by shippers - and a request is all that is necessary to obtain such an accommodation - freight is sent out on the early schedule and delivered immediately. The delivery service at Sacramento, it was stated, had met with general approval; no complaints have been received.

During the period when applicant's operations were interrupted by strike conditions, the traffic handled by Pacific Motor Transport Company increased to some extent. This, however, was offset by the current decline in business due to the strike.

Operating under a certificate from this Commission, protestant Sacramento Motor Transport has conducted a daily service between Sacramento and Vallejo, where, at the time of the hearing in this matter, it interchanged traffic with Southern Pacific-Golden Gate ferries under a joint rate and through-route arrangement which had been approved by this Commission. Substantially all the business handled, in fact 90% of it, was through traffic moving between San Francisco and Sacramento; a comparatively small volume of local traffic was transported between Sacramento and Vallejo and intermediate points, excluding Davis. A daily overnight service was provided in each direction, the scheduled time of arrival at Sacramento being 4:00 A.M. The Sacramento traffic did not exceed from 25 to 30 tons daily. Deliveries in Sacramento, accomplished through a fleet of six trucks which might, if necessary to handle bulky shipments, be increased to twelve, usually began around 8:00 A.M. and continued until as late as noon, depending on the volume of traffic. Expedited shipments were first delivered. Ordinarily, the delivery trucks made but one trip each. This protestant has received no complaints, it was stated, reflecting upon the efficiency of the service.

Representatives of various business institutions at Sacramento were called on behalf of protestants, and the testimony of others was, by stipulation, made a part of the record. Spokesmen of three San Francisco firms also were called, and letters written by two Oakland shippers were received. In addition, an employee of an Oakland shipper took the stand. At Sacramento,

protestants called eleven witnesses representing wholesale dealers in auto supplies, groceries, tobacco, cigars, liquor, and electrical supplies, dealers in home furnishings, furniture, newspapers, and magazines, a jobber of electrical supplies, and a retail lumber and fuel dealer. A representative of Bekins Van & Storage Company also testified. The local representative of Bishop & Bahlor, traffic managers, described the transportation needs of one of their clients with whose situation he was personally acquainted. All of them shipped freight in substantial quantities from San Francisco, and some of them from Oakland and Berkeley, using, for the most part, the facilities of Pacific Motor Transport Company; some shipped by other carriers such as the Western Pacific, the Sacramento Northern, Sacramento Transport, Keller Service (Automotive Purchasing Company, Inc.), Chichester Transportation Company, and Railway Express Agency. Some had used The River Lines prior to the interruption of its service by strike conditions, while others had ceased patronizing that carrier before its operations were discontinued. They had no complaint, so they stated, of the existing transportation facilities; they were adequate, and no additional service was essential to their needs. Generally speaking, these business houses regularly and frequently have shipped a substantial volume of tonnage from San Francisco, and, to a smaller degree, from Oakland and Berkeley, to Sacramento, upon which early morning delivery is required. A few, however, testified that no urgency attended the delivery of their shipments. Of the shippers called at Sacramento, several who had previously used The River Lines, for transportation of traffic from San Francisco, Oakland, and Berkeley, stated they would do so once more were its service improved so as to permit an early delivery; a few said they would not resume its use, the facilities of protestants being sufficient to meet their requirements. Somewhat similar testimony was given by the

three witnesses called at San Francisco. It was stipulated that the testimony of ten additional witnesses, engaged in business at Sacramento, would be substantially similar to that given by those who were called.

Stripped to its essentials, the application seeks authority for The River Lines to conduct, on those occasions when its steamers will be delayed by fog, adverse tides, and highwater, an auxiliary truck service between San Francisco and Sacramento for the transportation of that comparatively small portion of its total tonnage which requires expedited overnight service and early morning delivery at Sacramento. This truck, the testimony shows, will be operated a minimum of 125 days, and probably not exceeding 200 days, during each year. To permit the boats to leave on schedule time, thus avoiding complaints from passengers, pickups unavoidably delayed beyond the closing hour will go by truck. This will also enable applicant to handle for its patrons traffic which becomes available for shipment at Oakland and Berkeley during the latter part of the afternoon, after the present closing hour of 3:30 P.M. This trucking service will be so tied in with the vessel operations that together they will constitute a fully integrated and unified transportation service; neither can be divorced from the other, nor can the trucking service survive the transfer or abandonment of the vessel operations. Throughout this trucking operation, applicant can provide for its patrons a rounded out, dependable and adequate service; without it, the service will be incomplete. In fact, the establishment of such a service appears essential to permit applicant to retain much of the traffic now moving by vessel, which otherwise may be diverted to other carriers. Shippers who find it convenient to concentrate their shipments in the hands of a single carrier may withdraw from applicant not only the traffic requiring expedited delivery

but all other tonnage as well. A supplementary service of this character, it is clear, is necessary to enable applicant to protect its traffic. It is true that by applicant's proposal, no economies can be effected in the existing vessel operations. Though the efficiency of applicant's service will be increased, no saving in operating costs will result. The vessels must continue to operate as at present.

The situation in which applicant finds itself will not be improved or alleviated by requiring it to utilize the present Rio Vista turn-around vessel service in conjunction with the existing truck service between Rio Vista and Sacramento. The vessels will still encounter delays, due to fog, adverse tides, and high water, and to stops at intermediate points to pick up tonnage. Additional trucks must be used to handle the traffic. The River Road, narrow and crooked, is far less suited to operations of this character than the highway via Vallejo and Davis. The needs of the shippers located at the intermediate river landings would be subordinated and sacrificed to those of the Sacramento shippers. And finally, the cost of conducting such a service would substantially exceed that encountered in operating the proposed truck line. Apprehension was expressed on behalf of protestants that were applicant permitted to establish the proposed truck-line, the loss of tonnage would be such that protestants might be obliged to curtail their service. Past experience had demonstrated, it was asserted, that the entrance of a new carrier into the field generally had this effect. Since an "on-call" service can be conducted more cheaply than a scheduled service, it was feared that this would cause a still greater diversion of the traffic.

It is true that the carriers now operating in this field are providing an adequate, efficient, and dependable service, and

are well able to handle all the traffic offered. But even so, they are clothed with no equities which entitle them to demand that applicant, a pioneer in river transportation between San Francisco, Oakland, and Sacramento, may not be permitted to improve its service. For this clearly is the essence of applicant's proposal - an improvement in its service. There is no substantial distinction between a truck line operated by a railroad or its subsidiary, as an auxiliary, supplemental, or substituted service, and one conducted by a water line. In either case, the purpose is identical, viz., to supplement and improve the primary service performed by the carrier and permit it by such means to overcome deficiencies which militate against the full performance of its public obligations. In neither case is a new carrier thereby authorized to enter the field, thus generating competition which may be harmful to those already occupying it. Though no economies will be effected through the operation of the supplementary truck service, this does not serve to differentiate applicant's proposal from those cases where a railroad, through a subsidiary, has been authorized to improve its service. Such was the ruling of the Commission in the Placerville case (In re Pacific Motor Transport Co., Dec. No. 26,262, dated August 21, 1933, on Appl. No. 18727).

THE RIVER LINES 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.

ORDER

A public hearing having been had in the above entitled matter, evidence having been received, the matter having been duly 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 establishment and operation by The California Transportation Company and Sacramento & San Joaquin River Lines, Inc., doing business under the name and style of The River Lines, of an automotive service as a highway common carrier, as such is defined in Section 2-3/4 of the Public Utilities Act:

(1) Between San Francisco and Sacramento, via San Francisco-Oakland Bay Bridge and Golden Gate Ferries, Vallejo, and American Canyon route, Fairfield, Vacaville, Dixon, and Davis;

(2) Between Oakland and Berkeley, on the one hand, and Sacramento, on the other, via Vallejo and American Canyon route, Fairfield, Vacaville, Dixon, and Davis;

as an alternative and supplemental service to the existing service of The River Lines by vessel between San Francisco, Oakland, and Berkeley, respectively, and Sacramento.

IT IS HEREBY ORDERED THAT a certificate of public convenience and necessity therefor be and the same is hereby granted to the California Transportation Company and Sacramento & San Joaquin River Lines, Inc., operating under the name and style of The River Lines, 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 (10) 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 day of this order, on not less than five (5) 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 twenty (20) days from the date hereof.

Dated at Los Angeles, California, this 14th day
of August, 1938.

Raymond W. Smith
Frank D. Smith
Ray L. Ciley
Commissioners