

Decision No. 34312

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of W. M. SANFORD and A. H. WESTON, copartners, doing business under the fictitious name of Kennett Dam Freight Transportation Company, for a certificate of public convenience and necessity to operate automobile truck service, as a common carrier, between San Francisco, California, and Kennett Dam Site, Shasta County, California.

Application
No. 18914

In the Matter of the Application of LESLIE T. ALWARD for a certificate of public convenience and necessity to operate an automobile service for the transportation of passengers, baggage and packages as a common carrier for compensation between Redding and Kennett Dam Site, California, and all intermediate points.

Application
No. 19250

In the Matter of the Application of PACIFIC MOTOR TRUCKING COMPANY for certificate of public convenience and necessity to operate motor trucks over the public highways as a common carrier of freight and express between Redding and Kennett, including all intermediate points.

Application
No. 21570

In the Matter of the Application of SACRAMENTO-CORNING FREIGHT LINES, LTD., a corporation, for certificate of public convenience and necessity to operate an auto truck freight service for transportation of property as a common carrier, between Sacramento and Kennett, California, and intermediate points, as an extension of existing operative rights.

Application
No. 21758

(Appl. 18914)

DOUGLAS BROOKMAN, for Applicant

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

THOMAS O'HARA, for Sacramento-Corning Freight
Lines, Ltd., Protestant.

(Appl. 19250)

JESSE W. CARTER, for Applicant

DOUGLAS BROOKMAN, for J. A. Gritsch, doing business
as Oregon-California Fast Freight, Protestant

A. S. WILLIAMS, JR., for Southern Pacific Company
and Pacific Motor Trucking Company, Interested
Parties

THOMAS O'HARA, for Sacramento-Corning Freight
Lines, Ltd., Interested Party

(Appl. 21570)

A. S. WILLIAMS, JR., for Applicant

A. S. WILLIAMS, for Southern Pacific Company,
Intervener in behalf of Applicant

DOUGLAS BROOKMAN, for J. A. Gritsch, doing
business as Oregon-California Fast Freight,
Protestant

THOMAS O'HARA, for Sacramento-Corning Freight
Lines, Ltd., Interested Party

(Appl. 21758)

THOMAS O'HARA, for Applicant

DOUGLAS BROOKMAN, for J. A. Gritsch, doing
business as Oregon-California Fast Freight,
Protestant

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

WHITSELL, Commissioner:

O P I N I O N

By Application No. 18914 J. A. Gritsch, an individual, operating under the name and style of Oregon-California Fast Freight, seeks authority to establish and operate an automotive service as a highway common carrier of property between Sacramento, Redding and Kennett as an extension and enlargement of his existing rights and consolidated therewith.

By Application No. 19250, as amended, Leslie T. Alward, an individual, seeks authority to establish and operate an automotive service as a common carrier of passengers, baggage and property between Redding and Kennett (now Shasta) Dam Site and all intermediate points.

By Application No. 21570 Pacific Motor Trucking Company, a corporation, seeks authority to establish and operate an automotive service as a highway common carrier of property between Redding and

Kennett and all intermediate points.

By Application No. 21758 Sacramento-Corning Freight Lines, Inc., seeks authority to establish and operate an automotive service as a highway common carrier of property between Sacramento and Kennett as an extension and enlargement of its existing right and consolidated therewith.

Public hearings of these applications were conducted in Redding on March 29, 30 and 31 of the year 1938, where testimony was received, the matters duly submitted on briefs subsequently filed with the Commission and they are now ready for decision.

The filing of these applications was predicated upon an anticipated demand for common carrier service to and from the Shasta Dam Site, a part of the Central Valley Water Project, now in process of construction.

This Central Valley Water Project of the State of California is a statewide water conservation, irrigation and flood control project which includes the construction, continuous maintenance and operation of this Shasta Dam formerly known as Kennett Dam.

The site for the Dam is approximately thirteen miles by highway northwest from the city of Redding which is located on U. S. Highway 99 and is intermediate to the town of Kennett which is located approximately eighteen miles from Redding.

Incident to this construction project certain civic and community developments have already begun at various points intermediate between Redding and the Dam Site such as Summit, Government Camp, Buckeye and Boomtown.

It has been conservatively estimated, according to the record, that this Shasta Dam will involve an expenditure of 80 to 100 million dollars, will require from four to seven years to complete, and at the peak of construction will employ from 4,000 to 6,000 men.

The Dam, as disclosed by the record, is to be 560 feet high and will impound about 4,500,000 feet of water which will result in flooding the Sacramento, Pitt and McCloud Rivers from twenty to thirty miles back of the dam.

Each of the applicants herein, with the exception of Leslie T. Alward, is now and has for some years past been engaged in the common carrier transportation of property by motor truck over the highways of this state under certificates of public convenience and necessity issued by this Commission. Applicant Alward was engaged for many years in the common carrier automotive transportation business and has heretofore had certificates of public convenience and necessity from the Commission. All of these applicants are experienced and able operators so that the question of the fitness of any or all of them may, I believe, be dismissed without further comment.

Concerning the testimony of public witnesses, some twenty five of whom were presented by the various applicants, suffice it to say that all were favorable to the establishment of a common carrier truck service to and from the Dam Site, although at present there is a very meager demand for such service. However, considering the magnitude of the Shasta Dam project, it is apparent that considerable traffic will ultimately move. Testimony of these public witnesses by stipulation of counsel was made applicable by reference from one applicant's record to the other. I do not believe, therefore, that any further discussion of such testimony need be made save to state that aside from a desire that a service be established, the public,

as represented in these proceedings, holds no brief for the individual applicants.

I, also, wish to make clear that aside from the "pooling" of public witnesses' testimony heretofore referred to no consolidation of the record in these proceedings was effected and each and every proposal will be separately adjudicated and determined upon the merits of the individual showings.

At this point, I believe, it is very evident that, in the determination of these matters, the Commission must proceed with extreme caution and exercise great care in the solving of the transportation problem placed before it by these applicants. Avoiding, on the one hand, an economic waste of transportation facilities, and, on the other hand, an equally unsatisfactory state of affairs which would result if insufficient transportation facilities were afforded in this territory.

With these two factors in mind, I will now proceed with the individual applications, taking first the application of Leslie T. Alward.⁽¹⁾ This application, as originally filed, December 26, 1933,⁽²⁾ proposed an automotive service for the common carrier transportation of passengers, baggage and express between Redding and the site of the Shasta Dam and all intermediate points subject to the restriction that the transportation of express be limited to packages weighing not more than 200 pounds transported in passenger vehicles only. Subsequently, at the hearing, Alward amended his application to remove both the weight and vehicle restriction referred to subject to the proviso that he alone were granted a certificate. In the event that other applicants were to be permitted to enter the field he requested that the restriction be once more imposed.

1. The position of applicants in this opinion only reflects a procedural arrangement and has no bearing on any priority status.
2. Action on these applications deferred account Central Valley Water Project, of which Shasta Dam is a part, was only in formative stage.

This applicant proposes a daily except Sunday service and will serve all intermediate points between Redding and Kennett (Shasta Dam) including Boomtown and Government Camp and will operate via U. S. Highway 99 to Coram Road, thence to the Dam Site. One round trip daily will be operated between termini and applicant wishes to travel the best road now available or over new roads when and if constructed between the points in the territory sought to be served. Alward further expressed his willingness to establish joint rates with any or all connecting carriers applicable via Redding and testified that he was willing and able to provide ample equipment of whatever type necessary to the proper conduct of a complete freight and passenger service by motor vehicle.

In regard to the proposal of J. A. Gritsch, doing business as Oregon-California Fast Freight, the record shows that this application (18914) was originally filed on May 27, 1933, by W.M. Sanford and A. H. Weston, a copartnership, doing business as Kennett Dam Freight Transportation Company, wherein there was sought a certificate of public convenience and necessity to transport property by motor truck as a common carrier between San Francisco and Kennett Dam Site, Shasta County. Subsequently, this copartnership, under date of August 12, 1933, filed an amended application requesting a certificate of public convenience and necessity to transport property by motor vehicle between San Francisco and Sacramento, on the one hand, and intermediate points along U. S. Highway 99 north of Woodland to and including Red Bluff, and points on U. S. Highway 99-E north of Chico and intermediate to Red Bluff, and points over and along U. S. Highway 99 intermediate between Red Bluff and Redding, on the other hand. On January 26, 1938, second amended application No. 18914 was filed with the Commission substituting J. A. Gritsch for W.M. Sanford and A. H. Weston in accordance with a stipulation entered into and

agreed upon by the parties as evidenced by Exhibit A, attached to and made a part of the application. By the application, as amended, Gritsch seeks a certificate of public convenience and necessity to serve between Redding and the Shasta Dam and all intermediate points including Boomtown, Government Camp, Summit City, Buckeye, and Newton as an extension and enlargement of his existing rights between San Francisco, Oakland, Berkeley, Alameda, Emeryville and San Leandro, on the one hand, and Red Bluff and Dunsmuir, including Red Bluff but excluding Dunsmuir and all intermediate points on the other hand, as authorized in Decision No. 27293, dated August 27, 1934, and amended by Decision No. 29335, dated December 7, 1936, on Application No. 19044.

This applicant also proposes to include Sacramento in his proposed extension of service but does not propose any service to or from any points intermediate between Sacramento and Redding but only to or from Redding and points intermediate between Redding and Kennett (Shasta Dam).

Oregon-California Fast Freight now renders an overnight service between points in the San Francisco Bay area and Redding, which service leaves Bay area points at approximately 7:00 P.M.. A similar overnight service is proposed out of Sacramento. Between Redding and Kennett applicant proposes two schedules daily except Sundays and holidays leaving Redding at 8:00 A.M. and 2:00 P.M. and arriving at Kennett at 10:00 A.M. and 4:00 P.M. respectively. Two schedules will leave Kennett at 10:30 A.M. and 4:30 P.M. arriving at Redding at 1:30 P.M. and 6:30 P.M. respectively. Applicant Gritsch further agreed that any load of five tons or more regardless of the number of consignees or consignorers would be afforded through service to points beyond Redding. He also stated that in many instances he would be willing to transport individual shipments of motors or other heavy freight weighing less than five tons as through shipments without change at Redding as a

service to shippers as well as being a convenience to the carrier. It was expected that terminal would be established at Boomtown and other places to facilitate the movement of freight.

This applicant will use his present equipment in this service and is willing and able to provide such other additional equipment as may be found necessary.

The application of Pacific Motor Trucking Company, a corporation, requests a certificate of public convenience and necessity to establish and operate an automotive service as a highway common carrier between Redding and Kennett and all intermediate points via U. S. Highway 99 from Redding to the junction of Coram Road; thence via Coram Road to junction of Kennett Road; thence via Kennett Road to Kennett direct or via Shasta Dam and in the reverse direction; or as an alternate route. From Redding via U.S. Highway No. 99 to junction of Kennett Road; thence via Kennett Road to Kennett direct or via Shasta Dam and in the reverse direction. Applicant also seeks authority to serve

(1) that territory which is bounded by U. S. Highway No. 99, Coram Road and Kennett Road,

(2) that territory lying west of U. S. Highway No. 99 within three (3) miles laterally on either side of Coram Road and within three (3) miles laterally on either side of Kennett Road north of its junction with Coram Road but such area not to extend north of Kennett.

In addition, applicant asks authority to use, as alternate routes, such other highways, streets or thoroughfares now existing or which might later be constructed as may be most available, practicable, economical and lawfully open to truck operation.

Pacific Motor Trucking Company proposes to operate this service as an "on call" service and Southern Pacific Company, through the testimony of an operating witness, agrees to establish joint rates with applicant.

Sacramento-Corning Freight Lines, Ltd., a corporation, by its application seeks a certificate of public convenience and necessity to establish and operate an automotive service as a highway common carrier between Redding, Kennett and Coram and intermediate points via Buckeye and Newton or via Boomtown and Government Camp as an extension and enlargement of applicant's existing rights between Sacramento and Redding and Sacramento and Galt as heretofore granted by Decision No.22396, dated May 1, 1930, on Application No.16426, and Decision No.28651, dated March 23, 1936, on Application No.19630. This applicant proposes a daily except Sunday and holiday service between termini leaving Redding at 7:00 A.M., arriving at Coram at 9:30 A.M. with a return trip leaving Coram at 10:00 A.M. and arriving at Redding at 1:00 P.M.

Sacramento-Corning Freight Lines, Ltd., also, expressed a willingness to enter into joint rate arrangements with connecting carriers.

After fully considering the record in these matters, I am convinced that there will exist a definite public need for transportation facilities in this territory over and above the existing services. This fact is particularly evidenced and supported by the magnitude of the construction project which has been made the basis for the instant applications. I am fully aware that without question of doubt a substantial volume of traffic destined to the dam site will accrue to the rail but I am equally convinced that aside from this traffic which no doubt will come for the most part from quite distant points, that there will exist a considerable demand for transportation service between Redding and the Shasta Dam and intermediate points for the purpose of providing necessities to the workers on this project as well as transporting various materials and other supplies. An automotive service for the transportation of passengers

as well as property will also be required.

Based on the conclusion that the public will be more adequately served by utilizing the existing common carriers' services from and to Redding in conjunction with an independent local operator between Redding and the establishment of joint through rates, I recommend the granting of a certificate of public convenience and necessity to Leslie T. Alward as prayed for, as a primary solution of this problem and the simultaneous denial without prejudice of the applications of J. A. Gritsch, Pacific Motor Trucking Company and Sacramento-Corning Freight Lines, Ltd.. I, also, recommend that the Commission keep in close touch with the transportation problem revolving around this Shasta Dam project with a particular view toward providing for the reopening of all proceedings involved herein within a period of one year from the effective date of this order, should conditions indicate the need for additional carriers in this territory. In so recommending, I in no way wish to abrogate the rights of any or all applicants herein involved but do so with the sole purpose of proceeding cautiously and carefully in this matter. It is self evident, I believe, that transportation facilities should expand with the territory and in thus slowly advancing they will more nearly approximate the pace apparently to be set by activity in this district.

Leslie T. Alward 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.

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 establishment and operation by Leslie T. Alward of an automotive service for the transportation of passengers and their baggage, as a passenger stage corporation as such is defined in section 2 $\frac{1}{2}$ of the Public Utilities Act, and as a highway common carrier as such is defined in section 2-3/4 of the Public Utilities Act for the transportation of property between Redding and Kennett and all intermediate points, over and along the following routes:

1. via U. S. Highway No. 99 to Junction of Coram Road; thence via Coram Road to Junction of Kennett Road; thence via Kennett Road to Kennett direct or via Shasta Dam.

2. via U. S. Highway No. 99 to Junction of Kennett Road; thence via Kennett Road to Kennett direct or via Shasta Dam

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, granted to Leslie T. Alward 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 one hundred and twenty (120) 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 one hundred and twenty (120) days after the effective date of this order, on not less than five days' notice to the Railroad Commission and the public, a time schedule or 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.

7. Applicant shall, upon request being made by any or all common carriers serving Redding, enter into joint rate agreements with such carriers and participate with such carriers in the publication and filing with the Commission of tariffs naming such joint rates as may be agreed upon. In the event of the failure to agree upon the volume of the joint rates or the division of revenue between carriers under such joint rates, the matter shall be referred to the Commission for settlement.

IT IS HEREBY FURTHER ORDERED that Application No. 18914 in the name of J. A. Gritsch operating under the name and style of Oregon-California Fast Freight; Application No. 21570 in the name of Pacific Motor Trucking Company; and Application No. 21758 in the name of Sacramento-Corning Freight Line, Ltd. be and they hereby are denied without prejudice.

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.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 26th day of September, 1938.

Ray B. Walker
John A. Quinn
Frank R. Smith
Ray L. Riley
Commissioners