

Decision No. 30827

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of
PACIFIC MOTOR TRUCKING COMPANY to
acquire, and GUIDO de GHETALDI, d.b.a.
CLEAR LAKE MOTOR DRAYAGE, to sell that
certain motor truck line operating between
Ukiah and Lucerne, together with all
operative rights and certain equipment
pertaining thereto, and, further, for
authority to consolidate all operating
rights to be acquired with the operating
rights now held by Pacific Motor Trucking
Company by virtue of Decision No. 30827
on Application No. 21853.

Application No. 22650

BY THE COMMISSION:

O P I N I O N

Guido de Ghetaldi, doing business as Clear Lake Motor Drayage, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Pacific Motor Trucking Company, a corporation, of operative rights for the automotive transportation as a highway common carrier of property between Ukiah and Lucerne and intermediate points via Upper Lake and Clear Lake Lodge, as more particularly hereinafter referred to; and Pacific Motor Trucking Company has petitioned for authority to purchase and acquire said operative rights and to hereafter operate thereunder. The sale and transfer is to be in accordance with an agreement, a copy of which, marked Exhibit "A", is attached to the application herein and made a part thereof.

The consideration to be paid for the property herein proposed to be transferred is given as \$1,750. Of this sum \$250 is alleged by applicants to be the value of the equipment and \$1,500 is alleged to be the value of the intangibles.

The operative rights herein proposed to be transferred were created by Decision No. 20713, dated January 23, 1929, on Application No. 15310, Decision No. 23294, dated January 19, 1931, on Application No. 17131, and Decision No. 23296, dated January 19, 1931, on Application No. 17135.

Applicant Pacific Motor Trucking Company further requests that the Commission consolidate de Ghetaldi's rights with those now held by applicant Pacific Motor Trucking Company and upon consolidation thereof the Commission is requested to make its order defining such consolidated operative rights.

Pacific Motor Trucking Company is now operating a highway common carrier service between Hopland, Ukiah, Upper Lake, Lakeport and Kelseyville over U. S. Highway No. 101 and State Routes Nos. 20 and 29, subject to certain restrictions, by virtue of authority acquired in the Commission's Decision No. 30527, dated May 2, 1938, which is consolidated with the highway common carrier operative right between Hopland and Kelseyville and Lakeport acquired from J. A. Keithly under authority of the Commission's Decision No. 29698, dated April 26, 1937.

The authority herein requested appears to be in the public interest and will be granted. A public hearing does not appear to be necessary.

The request for a definition of the consolidated operative rights will be construed as a request for a certificate de novo in lieu of the operative rights now held by Pacific Motor Trucking Company and those herein authorized to be acquired from applicant de Ghetaldi, and the order will so provide.

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

IT IS ORDERED that applicant de Ghetaldi is hereby authorized to transfer to Pacific Motor Trucking Company the operative rights created by Decisions No. 20713, dated January 23, 1929, No. 23294, dated January 19, 1931 and No. 23296, dated January 19, 1931; and Pacific Motor Trucking Company is hereby authorized to acquire said operative rights as an extension and enlargement of the operative rights now held by Pacific Motor Trucking Company heretofore created by the Commission's Decision No. 29698, dated April 26, 1937, and Decision No. 30827, dated May 2, 1938, subject to the following conditions:

1. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission, or any other rate fixing body, as a measure of value of said property for rate fixing, or for any purpose other than the transfer herein authorized.
2. Applicant Guido de Ghetaldi shall within twenty (20) days after the effective date of the order herein unite with applicant Pacific Motor Trucking Company in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant de Ghetaldi withdrawing and applicant Pacific Motor Trucking Company accepting and establishing such tariffs and all effective supplements thereto.
3. Applicant de Ghetaldi shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in his name with the Railroad Commission.
4. The authority herein granted shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein unless, for good cause shown, the time shall be extended by further order of the Commission.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY
DECLARES that public convenience and necessity require the establish-
ment and operation by Pacific Motor Trucking Company, as a highway
common carrier as defined in section 2 3/4 of the Public Utilities
Act, for the transportation of property between Ukiah, Hopland,
Upper Lake, Lucerne, Lakeport, Finley, Kelseyville and all points
intermediate thereto, over and along the following routes:

California State Route No. 20 between Ukiah, Upper
Lake and Lucerne; California State Route No. 29
between Upper Lake, Lakeport, Finley and Kelsey-
ville; California State Route No. 29 and county
highways between Hopland, Kelseyville and Lakeport;
U. S. Highway No. 101 between Hopland and Ukiah;

subject to the following restriction:

No local traffic may be handled between Ukiah and
Hopland and intermediate points over and along U.S.
Highway No. 101;

not in addition to but in lieu of the operative rights heretofore
created by the following decisions of the Commission:

<u>Application No.</u>	<u>Decision No.</u>	<u>Dated</u>
15310	20713	1/23/29
17131	23294	1/19/31
17135	23296	1/19/31
21088	29698	4/26/37
21853	30827	5/2/38

IT IS FURTHER ORDERED that a certificate de novo therefor is
hereby granted to Pacific Motor Trucking Company, subject to the
following conditions:

1. Applicant Pacific Motor Trucking Company shall file a
written acceptance of the certificate herein granted
within a period of not to exceed fifteen (15) days
from date hereof stipulating therein that said certif-
icate is accepted in lieu of all operating rights
created by Decisions Nos. 20713, 23294, 23296, 29698
and 30827.
2. Applicant Pacific Motor Trucking Company 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

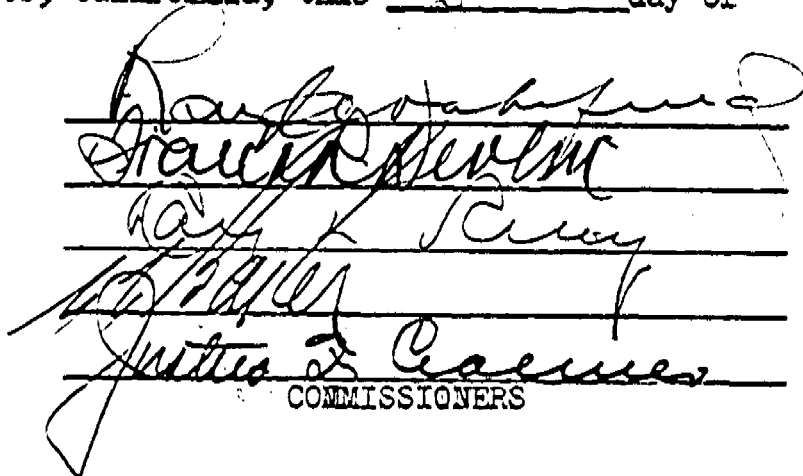
effective on not less than ten (10) days' notice to the Railroad Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which in volume and effect shall be identical with the rates and rules now in effect between the points involved herein, in so far as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.

3. Applicant Pacific Motor Trucking Company 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, 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 Pacific Motor Trucking Company unless such vehicle is owned by said applicant or is leased by it 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.

IT IS FURTHER ORDERED that Decisions No. 20713, dated January 23, 1929, No. 23294, dated January 19, 1931, No. 23296, dated January 19, 1931, No. 29698, dated April 26, 1937, and No. 30827, dated May 2, 1938 are hereby revoked and annulled.

For all other purposes the effective date of this order shall be the date hereof.

Dated at Los Angeles, California, this 2nd day of May, 1939.



COMMISSIONERS