

Decision No. 32481

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SCOTT LAWTON, d.b.a. OROVILLE TRUCK AND)
STORAGE CO, for a certificate of public)
convenience and necessity to operate an)
auto truck line for the transportation)
of freight, as a highway common carrier,)
between Oroville and Oroville Junction)
in Butte County, California.)

ORIGINAL

Application No. 23056

BY THE COMMISSION:

O P I N I O N

Scott Lawton, applicant herein, doing business as Oroville Truck and Storage Co., requests a certificate of public convenience and necessity for the establishment and operation of a highway common carrier service between Oroville and Oroville Junction.

The service proposed will be limited to the traffic of Sacramento Northern Railway Company through participation by applicant in the tariffs of said Sacramento Northern Railway Company, such participation to be restricted to applicant's concurrence in rates for the transportation of property where such property is first in the custody of said rail company and its connecting carriers. The rates to be charged by applicant are those contained in the tariffs of the carrier whose traffic it is proposed to handle.

Service will be provided with such regularity and at such times as the demands for transportation reasonably require, usually one round trip daily.

As justification for the authority sought applicant

alleges substantially as follows:

That he is the contract drayman for Sacramento Northern Railway in the city of Oroville and has entered into arrangements with that carrier for the transportation between Oroville and Oroville Junction of less-than-carload freight routed via the rail line to or from Oroville, it being impossible to transport said freight over the Oroville Branch of the Sacramento Northern Railway because of the destruction of the Feather River railroad bridge on said Oroville Branch.

That the proposed service is necessary in order that less-than-carload shipments routed via Sacramento Northern Railway to or from Oroville can be transported with the degree of dispatch required by the public.

That the proposed operations will not in any manner prejudicially affect the interest of any other common carrier.

It does not appear that a public hearing in this matter is necessary and we are of the opinion that the authority requested is in the public interest and will be granted.

Scott Lawton 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 establishment and operation by Scott Lawton, doing business as Oroville Truck and Storage Co., of a highway common carrier service, as that term is defined in section 2 3/4 of the Public Utilities Act, for the transportation of property for compensation moving in the custody of Sacramento Northern Railway Company, between Oroville and Oroville Junction.

IT IS ORDERED that a certificate of public convenience and necessity therefor is hereby granted to Scott Lawton, subject to the following conditions:

1. The authority herein granted shall lapse and be void if applicant shall not have complied with all of 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.
2. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
3. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and upon not less than five (5) days' notice to the Commission. It shall also file, in duplicate, within a period of not to exceed twenty (20) days from the effective date hereof, copies of any contract or contracts entered into between applicant and any carrier or carriers pursuant to the authority herein granted.
4. 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 (5) 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.
5. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission thereto has first been obtained.

6. 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.
7. 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.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 24th day of
October, 1939.

Ray Broadbent
Frank W. W. W.
Ray B. Cline
H. W. W.
Justus J. Caseman
COMMISSIONERS