

Decision No. 32662

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of Application of PACIFIC MOTOR )  
TRUCKING COMPANY for a certificate of public )  
convenience and necessity for the transporta- )  
tion of property by motor truck for other )  
common carriers between San Luis Obispo and )  
Oceano and certain intermediate points. )

**ORIGINAL**

Application  
No. 21023

A. S. WILLIAMS, for Applicant and Southern Pacific  
Company, Interested Party.

HUGH GORDON, for Valley and Coast Transit, Incorporated,  
and E. L. McConnel, doing business as Coast Line  
Express, Protestants.

WALLACE K. DOWNEY, for Pacific Freight Lines, Protestant.

JACKSON W. KENDALL, for Bekins Van Lines, Inc., Lyons  
Van Lines and W. L. Carpenter, doing business as  
Argonne Van and Storage Company, Protestants.

BY THE COMMISSION:

O P I N I O N

In this application, as amended, Pacific Motor Trucking Company requests a certificate of public convenience and necessity which will authorize it to establish and operate an automotive service as a highway common carrier for the transportation of property moving in the custody of Southern Pacific Company, Railway Express Agency, Incorporated, and other carriers of the same class, or classes, moving to, from, or between the communities and rail stations of San Luis Obispo, Pismo, Oceano, Edna, Tiber and Grover, and also to, from, or between any other communities or stations which may now exist or may hereafter be established along the main line of Southern Pacific Company between San Luis Obispo and Oceano, including the furnishing of store-door pickup and delivery service at such points within such limits which are now or which may hereafter be provided in the rail

or express tariffs of the carriers whose traffic applicant proposes to handle.

A public hearing was held in San Luis Obispo on November 22, 1938, before Examiner Paul, at which time the matter was submitted on briefs which having been filed on March 10, 1939, and May 1, 1939, the matter is now ready for decision.

The proposed route of operation between San Luis Obispo and Pismo is over U. S. Highway No. 101 and between Pismo and Oceano via an unnumbered highway. Service is also proposed to the community of Edna, Tiber and Grover located on an unnumbered highway between San Luis Obispo and Pismo. An alternate route is proposed between Pismo and Oceano via Arroyo Grande. It is not proposed, however, to serve Arroyo Grande.

The rates to be charged the public for the proposed service will be those provided for in the tariffs of the carriers whose traffic applicant proposes to transport.

The service proposed is a daily except Sundays and holidays between San Luis Obispo, Pismo and Oceano. It is also proposed that an on-call service will be provided for the community of Edna.

From the evidence introduced by applicant it appears that rail traffic leaving San Francisco at 7:40 P.M. usually arrives at San Luis Obispo between 1:00 and 2:30 o'clock the following morning. The rail traffic leaving Los Angeles at approximately 8:00 P.M. arrives at San Luis Obispo the following morning at about 2:00 o'clock. Upon the arrival of this traffic at San Luis Obispo, shipments destined to Oceano and Edna are unloaded from the transfer car and reloaded into a box car operating from San Luis Obispo to Guadalupe and points on the Santa Maria Valley Railroad. This merchandise is of such

volume that it does not justify the operation of a local train, consequently, the car is handled on a train normally pulling carload traffic. This train leaves San Luis Obispo between 7:30 P.M. and 8:30 P.M. and the less-than-carload traffic for Oceano is unloaded during the night. As a result of this method of handling traffic from San Francisco and Los Angeles to Oceano and Pismo, such traffic is not available for final delivery until the second morning from the date of shipment. Fifty per cent of the less-than-carload rail traffic arriving at San Luis Obispo originates at Los Angeles and San Francisco Bay territory.

The present method of handling such less-than-carload traffic is resulting in additional costs which will be eliminated by the proposed operation. The less-than-carload traffic for Pismo and Oceano, at the present time, moves from San Luis Obispo on a train made up to expedite the movement of vegetables in carload quantities from the Santa Maria Valley territory. This train now makes carload pickups at Guadalupe which are consigned for direct connection at Los Angeles with certain vegetable blocks which require a fast expeditious service. The establishment of the proposed service would eliminate stops of this vegetable train to do local work, thereby resulting in economies. At the present time, the Southern Pacific Company is operating under a wage agreement with its train crews under which a through train which makes a stop to handle local merchandise requires payment to its crew of a local train rate which is a higher rate than that of the through train. An additional factor is that of the payment of wages for overtime. If the proposed service is established the rail carrier will be enabled to eliminate the present Oceano stop of the Guadalupe vegetable train. There will be an additional saving of engine fuel consumed during local work.

Traffic for Pismo is delivered at Oceano at which station a local agency is maintained. Upon the arrival of such traffic the

consignee is notified by the Oceano agent. Pismo is a non-agency station located about three miles from Oceano. Edna is also a non-agency station and traffic destined thereto is now handled by the vegetable train and unloaded at Oceano with an occasional shipment unloaded at Edna at the owners risk. Oceano is the only point which is now served by the train crew. A local way car is set out at Guadalupe for movement over the Santa Maria Valley Railroad. The vegetable train then proceeds from Guadalupe to Santa Barbara and engages in no local work between such points. This train is the only regular train now available to handle local less-than-carload traffic.

The establishment of the proposed truck operation was protested by Pacific Freight Lines and Valley and Coast Transit, as to the transportation of all classes of traffic, and by Bekins Van Lines, Inc., with respect to the transportation of used household goods and office fixtures and furniture.

Among its operations Pacific Freight Lines provides a highway common carrier service between Los Angeles and San Luis Obispo and intermediate points. Between Santa Barbara and San Luis Obispo service may be given to or from points within a radius of ten miles of its authorized route for shipments of ten tons minimum. Other restrictions on this route do not affect the points involved in this proceeding.

Among its operations Valley and Coast Transit Company provides a highway common carrier service between San Francisco, San Luis Obispo, Orcutt and Lompoc, and intermediate points, subject to certain restrictions between San Francisco, Salinas and King City. It provides an unrestricted service to and from San Luis Obispo and Arroyo Grande and intermediate points, including Avila and Ontario.

It also provides an on-call service between San Luis Obispo and Arroyo Grande via Edna and within a zone extending ten miles on each side of the route between such points for minimum truck loads of five thousand pounds.

Bekins Van Lines is providing a highway common carrier service for the transportation of used household goods and office fixtures and furniture, etc. between Los Angeles and San Francisco and intermediate points, via San Luis Obispo and other points involved herein.

Seven public witnesses testified in regard to the sufficiency and adequacy of the present highway common carrier service to and from Pismo. The consensus of those witnesses was that the service now afforded them by the present highway common carriers was highly satisfactory and meets all their needs and conveniences. Those witnesses receiving shipments from San Francisco Bay territory testified that such shipments were usually routed via Valley and Coast Transit Company and those receiving shipments from Los Angeles testified that such shipments were usually transported over the facilities of Pacific Freight Lines.

Pacific Freight Lines and Valley and Coast Transit made an offer to the Southern Pacific Company to handle its rail traffic to and from Pismo, Edna and Oceano under either a joint rate, proportional rate, contractual, or any other lawful arrangement. Such offer was not acceptable to said company.

Protestants take the position that no need was shown for an additional highway common carrier service. Applicant contends that the proposed service will not result in an additional service but in an improvement upon the presently operated rail service which will permit Southern Pacific Company to render an expedited over-night service between San Francisco and Los Angeles, on the one hand, and points herein involved, on the other hand. The establishment of the proposed service will also enable Southern

Pacific Company to establish numerous economies in its rail operations.

From the record it is our judgment that public convenience and necessity require the authorization of the service proposed by applicant, subject to a restriction that no traffic may be handled except that which has had either a prior, or will have a subsequent, rail haul. Such will be the order.

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.

#### ORDER

Pacific Motor Trucking Company, a corporation, having made application as above-entitled, a public hearing having been held, evidence having been received, briefs filed, the matter having been duly submitted, and the Commission now being duly advised:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Pacific Motor Trucking Company of an automotive service as a highway common carrier, as such term is defined in section 2-3/4 of the Public Utilities Act, for the transportation of shipments of property moving in the custody of Southern Pacific Company, Railway Express Agency, Incorporated, and any other carrier of the same class

or classes, between the railroad stations of Southern Pacific Company located at San Luis Obispo, Pismo, Edna, Tiber, Grover and Oceano, and the intermediate stations now existing, or which may hereafter be established, on the line of Southern Pacific Company, including the right to perform store-door pickup and delivery service at any and all of said station points, limited to said shipments, which service may be performed only at the rates of said carriers and at said pickup and delivery stations, service may be performed for said carriers, respectively, only within the pickup and delivery zones specified and provided in the tariffs of said carriers, respectively, presently in effect and on file with this Commission. Said operation is to be performed over and along the following routes:

U. S. Highway No. 101 between San Luis Obispo and Pismo Beach; public highway between San Luis Obispo and Oceano via Edna, Tiber and Grover; and as an alternate route the public highways between Pismo Beach and Oceano via Arroyo Grande may be used, provided that no service may be provided to or from Arroyo Grande.

IT IS ORDERED that a certificate of public convenience and necessity therefor is hereby granted to Pacific Motor Trucking Company, subject to the following conditions:

1. No property may be transported by applicant unless such property has had either a prior movement, or is to have a subsequent movement, over the rails of Southern Pacific Company.
2. 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.
3. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from date hereof.

4. 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.
5. 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.
6. 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.
7. 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.
8. 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 twenty (20) days from the date hereof.

Dated at San Francisco, California, this 25<sup>th</sup> day of

December, 1939.

Rafael Valdez  
Ray L. Riley  
H. B. Miller  
Justus J. Casner  
 COMMISSIONERS