

Decision No. 22603

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
PACIFIC MOTOR TRUCKING COMPANY, for
a certificate of public convenience
and necessity authorizing operation
of auto truck service as a common
carrier for the transportation of
freight and express shipments in the
custody of Pacific Electric Railway
Company, Pacific Motor Transport Comp-
any, Railway Express Agency, Inc., et
al, between West Hollywood and Beverly
Hills, both in Los Angeles County,
California.

ORIGINAL

Application No. 20938

C. W. CORNELL and E. L. H. BISSENGER, for
Applicant.

H. P. MERRY, for Southern California Freight
Lines, Protestant.

BY THE COMMISSION:

O P I N I O N

By this application, Pacific Motor Trucking Company seeks
a certificate of public convenience and necessity, authorizing the
establishment of a trucking service over such streets or thorough-
fares as may be available and most practical, and legally open to
truck operation between the un-incorporated community of West Holly-
wood and the city of Beverly Hills, both in Los Angeles County,
limited to shipments of property in the custody of Pacific Electric
Railway Company, Pacific Motor Transport Company, Railway Express
(1)

(1) Pacific Motor Transport Company was authorized by Decision No.
30723, dated March 21, 1938, in Application No. 21599 (41 CRC
166) to discontinue operation as an express corporation. Since
August 1, 1938, the transportation service formerly performed by
that company has been rendered by the transportation companies
over whose lines that company's traffic had moved.

Agency, Incorporated, and any other carrier of the same class using rail facilities.

A public hearing was held at Los Angeles, at the conclusion of which the matter was duly submitted and is now ready for decision.

The purpose of this application is to provide a more expeditious service from and to the territory involved, and to effect economies in operation. At the present time, the Pacific Electric Railway Company is providing service by rail between West Hollywood and Beverly Hills. Shipments destined to West Hollywood and Beverly Hills are loaded into separate box cars. Beverly Hills has no freight station facilities. The Pacific Electric team track at Beverly Hills is located approximately thirty-six hundred (3600) feet southwesterly from the Pacific Electric freight and passenger depot at West Hollywood. Cars must be spotted on the team track where they are left unattended until unloaded by local draymen.

The proposed service contemplates the use of trucks to move traffic between West Hollywood and Beverly Hills from or to cars spotted at West Hollywood. It appears that the box cars so spotted, have sufficient capacity to handle all traffic moving to or from the points involved. In fact, prior to January 1, 1937, only one box car was used at West Hollywood, a Beverly Hills local drayman, under contract with applicant, handled the traffic to and from such car destined to or moving from consignees or consignors at Beverly Hills. Since that date, however, the service has been conducted as aforesaid, by means of separate cars to both communities.

Under present conditions, it appears that the Beverly Hills team track is at times inadequate to handle a large movement of cars,

said team track being limited in capacity to five box cars. Due to the one car being required for less-than-carload merchandise, only four cars set aside for carload merchandise may be spotted, requiring in numerous instances the re-spotting of the less-than-carload car two or three times. It further appears that when the less-than-carload car has been unloaded, it must of necessity be returned in most instances empty to the point of origin for re-loading.

The record shows that the economies which would be effected if this application were granted would be the elimination of the expense of moving one box car daily except Sundays and legal holidays between Los Angeles and Beverly Hills. ⁽²⁾ If a foreign box car is used a charge of one dollar per day is assessed carriers for each day such car is in their possession.

A number of witnesses appeared in support of the application. Their testimony was along the same general line, in substance, declaring they had been using the service of applicant as well as the service of the associated companies, and desired to continue so doing.

Southern California Freight Lines, the only protestant herein, contended that the granting of the certificate here sought, will create an additional competitor in the field which is now adequately served, and will burden the highway with additional trucks. A willingness to perform the auto truck service, under contract, between the points involved, was offered by protestant.

(2) A savings, including the cost of operating 50 box car miles per day, extra switching at point of origin and extra spotting at destination, together with incidental delays occasioned thereby.

The contention of protestant that the granting of the application will place a new competitor in the field is not well supported as it appears that the proposed service will be restricted to the traffic for, and on behalf of, the Pacific Electric Railway Company, Railway Express Agency, Incorporated, and other carriers of the same class, and it further appearing that no local service will be performed between West Hollywood and Beverly Hills.

Pacific Electric Railway and applicant are both wholly owned subsidiaries of Southern Pacific Company. The Pacific Electric Railway is now providing a rail service to and from both points involved herein and the granting of the authority requested will enable applicant to provide the same service by truck, thereby enabling Pacific Electric Railway to effect economies and improvements in its services. It is not shown in this record that the establishment of the proposed service will prejudice the operative rights or service of protestant.

We are of the opinion that the authority requested is in the public interest and it will be granted.

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 as to the number of rights which may be given.

O R D E R

A public hearing having been held upon the above entitled application, the matter having been duly submitted, and now being ready for decision:

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, a corporation, of an automotive truck pick-up and delivery service, as a highway common carrier between Beverly Hills and the freight station located on the lines of the Pacific Electric Railway Company at West Hollywood, for the transportation of property in the custody of Pacific Electric Railway Company, Railway Express Agency, Incorporated and/or any other carrier using rail facilities for whom applicant transports shipments, and which may be delivered to, or received from applicant at Pacific Electric Railway Company's freight station located at West Hollywood.

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. 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. 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 the Pacific Electric Railway Company.
3. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days after the effective date hereof.

4. Applicant shall file, in duplicate, within a period of not to exceed thirty (30) days from the effective date hereof, copies of the contract or contracts entered into by applicant, under the authority herein granted. Applicant shall commence operation of said service within a period of not to exceed thirty (30) days after the effective date hereof.
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 Commission and the public, 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 therefor has first been secured.
7. No vehicle may be operated by applicant herein, 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.
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 5th day of December, 1939.

Robert W. Wabnitz
Robert W. Rice
W. H. Miller
Justus J. Guerner
 COMMISSIONERS