

Decision No. 32812

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of OREGON-NEVADA-CALIFORNIA FAST FREIGHT, INC. (substituted for W. M. Sanford and A. H. Weston, co-partners) 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

CONFIDENTIAL

In the Matter of the Application of LESLIE T. ALWARD, H. V. THATCHER and E. H. LOWDEN, doing business as Shasta Dam Transit Company, 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.

Supplemental
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

WARE & BEROL, by E. M. Berol for Oregon-Nevada-California Fast Freight, Inc. in Application No. 18914; and Sacramento-Corning Freight Lines, Ltd., in Application No. 21758.

R. E. WEDEKIND, for Pacific Motor Trucking Company, in Application No. 21570; and Alward, Thatcher and Lowden, in Application No. 19250.

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

BY THE COMMISSION:

OPINION ON FURTHER HEARING

The Commission, by Decision No. 31312 (September 26, 1938), granted a certificate of public convenience and necessity to L. T. Alward, authorizing him to transport freight, passengers and baggage between Redding and Kennett (including Shasta Dam) and intermediate points. By the same decision, the Commission denied, without prejudice, the applications of Oregon-Nevada-California Fast Freight, Inc.,⁽¹⁾ Pacific Motor Trucking Company and Sacramento-Corning Freight Lines, Ltd. These three applicants sought substantially the same rights granted to Alward.⁽²⁾ The Commission required Alward to establish joint rates with the other three applicants.

In Decision No. 31312, supra, the presiding Commissioner stated:

"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

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- (1) Oregon-Nevada-California Fast Freight, Inc. acquired all the rights of J. A. Gritsch (Decision No. 32015, dated May 23, 1939) the latter having been substituted for W. M. Sanford and A. E. Weston in Application No. 18914.
- (2) By Decision No. 31482, dated November 28, 1938, the right granted to Alward was transferred to a co-partnership consisting of L.T. Alward, H. V. Thatcher and E. H. Lowden.

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."

On December 5, 1939, Alward and his co-partners filed a supplemental application requesting authority to abandon the right heretofore granted it, in so far as it involved the transportation of property (except baggage). Subsequently, petitions were filed by the Oregon-Nevada-California Fast Freight and Sacramento-Corning Freight Lines, Ltd. for a reopening and further hearing of the above entitled proceedings. The petition was granted and a further hearing had before Examiner Brown at San Francisco January 25, 1940.

According to the testimony of Alward, the co-partnership has not been able to operate profitably due primarily to its inability to obtain and operate equipment suitable for the handling of large shipments.

The record in this proceeding shows that there is a public need for service in this area. It was the opinion of the operating witnesses of the Oregon-Nevada-California Fast Freight, Sacramento-Corning Freight Lines, and Pacific Motor Trucking Company that there is potentially sufficient traffic from and to the Shasta Dam district to justify the services of these three carriers. None opposed the other applications. They will be granted.

Oregon-Nevada-California Fast Freight, Inc., Pacific Motor Trucking Company and Sacramento-Corning Freight Lines, Ltd. corporations, are 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 ON FURTHER HEARING

A public rehearing having been had on the above-entitled proceedings, evidence having been received, the matters having been duly submitted, and the Commission being now fully advised:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by Oregon-Nevada-California Fast Freight, Inc., (as an extension and enlargement of the operative right created by Decision No. 27293, dated August 27, 1934) Sacramento-Corning Freight Lines, Ltd. (as an extension and enlargement of the operative rights acquired by Decision No. 22396, dated May 1, 1930, and created by Decision No. 28651, dated March 23, 1936) and Pacific Motor Trucking Company, corporations, of automotive services as highway common carriers, as such term is defined in Section 2-3/4 of the Public Utilities Act, for the transportation of property for compensation between Redding, Kennett, Shasta Dam and Coram and intermediate points via Buckeye, Newton, Boomtown and Government Camp, over and along U.S. Highway No. 99, Kennett Road and Coram Road.

IT IS ORDERED that separate certificates therefor are hereby granted to Oregon-Nevada-California Fast Freight, Inc.,

Sacramento-Corning Freight Lines, Ltd., and Pacific Motor Trucking Company, corporations, subject to the following conditions:

1. The authorities herein granted shall lapse and be void if applicants 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.
2. Applicants shall file written acceptances of the certificates herein granted within a period of not to exceed twenty (20) days from the effective date hereof.
3. Applicants shall commence the services 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, 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 exhibits attached to the applications in so far as they conform to the certificates herein granted, or rates and rules satisfactory to the Railroad Commission.
4. Applicants 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, time schedules covering the services 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 therefor has first been obtained.
6. No vehicle may be operated by applicants herein unless such vehicle is owned by said applicants or is leased by applicants under a contract or agreement on a basis satisfactory to the Railroad Commission.
7. Applicants shall, prior to the commencement of services authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

IT IS FURTHER ORDERED that applicants L. T. Alward, H. V. Thatcher and E. H. Lowden, co-partners, are hereby authorized to discontinue and abandon all highway common carrier service between Redding and Kennett and intermediate points, via Shasta Dam, and the

operative right therefor, heretofore granted by Decision No. 31312, is hereby revoked and annulled; provided, however, that said applicants may continue the transportation of baggage in connection with the transportation of passengers.

IT IS FURTHER ORDERED that L. T. Alward, H. V. Thatcher and E. H. Lowden shall cancel all rates, rules and regulations, and time schedules, governing the service herein authorized to be abandoned, the effective date thereof to be concurrent with the establishment of the highway common carrier services hereinbefore authorized.

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

Dated at San Francisco, California, this 13th day of February, 1940.

Ray C. Carey
David W. Waberski
A. L. ...
Justus J. Casner
COMMISSIONERS