

Decision No. 30270

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
PACIFIC FREIGHT LINES to lease to )  
F. F. SULLIVAN and for F. F. SULLIVAN )  
to lease from PACIFIC FREIGHT LINES, )  
a corporation, the right of Pacific )  
Freight Lines to operate an automobile )  
truck line between Los Angeles, Califor- )  
nia, and Newhall and Saugus, California. )

ORIGINAL

Application No. 23011

WALLACE K. DOWNEY, for Applicant.

JOHN F. McNEILL, for F. F. Sullivan.

BY THE COMMISSION:

O P I N I O N

In this application Pacific Freight Lines, a corporation, has requested the authority of the Commission to lease to F. F. Sullivan a highway common carrier operative right between Los Angeles, Newhall and Saugus, and F. F. Sullivan has requested the authority of the Commission to lease said operative right from Pacific Freight Lines and hereafter to operate thereunder. The term of the lease is two years from the date of approval by the Commission and is to continue thereafter from year to year unless sooner cancelled. The yearly rental to be paid is the nominal sum of one (\$1) dollar (Exhibit "A" of the application).

A public hearing in this proceeding was had before Examiner Paul, at Los Angeles, on March 28, 1940. The matter having been taken under submission is now ready for decision. No one appeared in protest to the authority sought.

In support of the authority sought Mr. C. G. Anthony, vice-president and general manager of applicant Pacific Freight Lines,

testified, in general, as to the present operations of said applicant between Los Angeles and San Joaquin Valley points. He testified in substance, that his company desires to lease its operative right between Los Angeles, Newhall and Saugus because Newhall and Saugus are small communities now being served by three common carriers; that there is not enough tonnage to justify the service of all three carriers; and that in fact such communities are now receiving too much transportation. He further stated that Newhall and Saugus are side-line points with respect to the main line operation of his company which uses the newly constructed state highway which passes Newhall and Saugus at some distance westerly thereof. Applicant offered in evidence a statement (Exhibit No. 1) which Mr. Anthony stated was prepared under his direction which shows that eleven round trips were made by his company between Los Angeles, Newhall and Saugus during February 1940, on which were handled 126 shipments of a total weight of 31,753 pounds. The revenue received from such traffic was \$147.71. The total cost of handling such shipments for the month of February was shown to be \$245.56, resulting in a loss from such operation for said month of \$97.85.

Mr. Anthony further testified that Pacific Freight Lines is now providing a so-called stub service between Los Angeles, Newhall and Saugus because it has been found to be advantageous to operate such service more in the nature of a branch line operation as service must be provided during the daylight hours. His company's trucks handling shipments from Los Angeles to San Joaquin Valley points are unable to provide service at Newhall or Saugus because they pass such places during the night when the establishments of consignees are closed. Such equipment now uses the newly constructed state highway which lies westerly from the present route

through Newhall to Saugus. Mr. Anthony further testified that his company does not desire to abandon but to protect its operative right to and from Newhall and Saugus because the territory contiguous thereto appears to be potential oil territory and by retention of the operative right applicant Pacific Freight Lines will be able to participate in any future transportation business which may develop in such territory.

Applicant Sullivan, doing business as Red Line Express, testified that he is giving a daily highway common carrier service between Los Angeles, Newhall, Saugus and other points which he is authorized to serve, that he now transports approximately fifteen tons monthly to or from Newhall and Saugus, and that he desires also to transport the traffic now handled by applicant Pacific Freight Lines if the authority requested is granted by the Commission.

In order to reach a proper conclusion in regard to this application a review of the operative rights of applicant Pacific Freight Lines as here involved is necessary.

Pacific Freight Lines asserts that the right it proposes to lease was created by the Commission's Decision No. 24396, dated January 18, 1932, on Application No. 17517 (37 CRC 40). By referring to that decision it is seen that on an application therefor a certificate de novo was granted to Motor Freight Terminal Company <sup>(1)</sup> in lieu of all the separate operative rights then owned by it. Such certificate consolidated and unified into one operative right all of the then owned operative rights and granted a new certificate providing, among other things, that the applicant therein could establish its operation in four divisions to wit: Coast Division, San Joaquin

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(1) Motor Freight Terminal Company was the original corporate name of applicant Pacific Freight Lines.

Valley Division, Imperial Valley Division, and San Diego Division. Here we are concerned only with the San Joaquin Valley Division. In general, the San Joaquin Valley Division is described by said Decision No. 24396 as being between Los Angeles and Los Angeles Harbor, Fresno, Taft, Maricopa, Fellows, McKittrick and points in the West Side oil fields, with authority to serve all terminals and intermediate points, except as therein restricted. That portion of the route of the San Joaquin Valley Division, authorized by said Decision No. 24396, affecting the points involved herein, reads as follows: "...via San Fernando Road or Cahuenga Pass to San Fernando, thence over state highway to its junction with Weldon Canyon Cutoff, then via either state highway via Newhall, or over Weldon Canyon Cutoff to the junction of the Weldon Canyon Cutoff with the state highway, then over state highway (Ridge Route) to Bakersfield and Fresno;\*\*\*" It is therefore apparent that the operative right between Los Angeles, Newhall and Saugus is not a separate right but an indivisible portion of applicant's so-called San Joaquin Valley Division.

In re Pickwick to lease to Craig (31 C.R.C. 410,412) it was pointed out that an operative right is indivisible and the principle should apply with equal force in cases when a lease of a part of an operative right is sought as well as in cases involving a proposed sale of a portion thereof. The doctrine has been consistently followed that in those cases where the burden has become irksome and unprofitable to a carrier that it should seek the authority of the Commission to abandon the operative right rather than to pass temporarily the burden to another carrier until

the operation again becomes profitable, at which time the original carrier could repossess itself of its former rights. It is not necessary to review the history of the numerous proceedings in matters of this nature. The Commission's position thereon has been well stated, in re Pickwick Stages System and Fred A. Sutherland (33 C.R.C. 443) and the numerous cases therein cited.

(2)  
However, there have been cases where the Commission has permitted the division of operative rights because of special circumstances and situations, the rule not being applied therein although its soundness was affirmed.

The Commission is of the opinion that it has not been shown that there is a public need to make an exception to the established rule and the application will be denied.

#### O R D E R

A public hearing on the above-entitled proceeding having been had and the matter submitted, and the Commission now being fully advised:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity do not require the Pacific Freight Lines to lease to F. F. Sullivan an operative right as a highway common carrier between Los Angeles, Newhall and Saugus, and

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(2) In re Benjamin Walters, Decision No. 30062, dated August 23, 1937, on Application No. 21076, and associated cases.  
In re Motor Transit and M. E. Green, Decision No. 30091, dated September 7, 1937, on Application No. 21334.

IT IS ORDERED that the application therefor is hereby denied.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 3<sup>rd</sup> day of July, 1940.

Ray L. Riley  
Frank P. Denny  
Raymond A. ...  
W. H. ...  
Justus J. ...  
COMMISSIONERS