

Decision No. 32400

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
NEVADA COUNTY TRUCKING COMPANY, a corpora-)
tion, for a certificate of public convenience)
and necessity to operate trucks between) Application
Nevada City and Colfax, and also between) No. 21760
Nevada City and Auburn, for the transportation)
of freight traffic of Nevada County Narrow)
Gauge Railroad Company.)

DOUGLAS BROOKMAN, for Applicant

ORIGINAL

BY THE COMMISSION:

O P I N I O N

Nevada County Trucking Company, a corporation, and a wholly owned subsidiary of Nevada County Narrow Gauge Railroad Company, herein seeks a certificate of public convenience and necessity for the transportation of property as a highway common carrier between Colfax and Nevada City and intermediate points, via Grass Valley; and between Auburn and Nevada City and intermediate points, via Grass Valley, provided that no service is proposed to or from any point intermediate to Auburn and Grass Valley.

Nevada County Narrow Gauge Railroad Company operates a narrow gauge steam railroad between Colfax and Nevada City, via Grass Valley. Its length is approximately twenty miles. The distance between Auburn and Nevada City, via the public highway, is approximately thirty miles. It is proposed to operate trucks between Colfax and Nevada City over the public highway roughly paralleling the rail line. It is also proposed, when necessary or expedient, to operate trucks over a route between Auburn and Nevada City, via Grass Valley.

A public hearing having been held and the matter duly submitted it is now ready for decision.

J. E. Taylor, president of the applicant corporation, was the only witness appearing on applicant's behalf. From his testimony and the record, it was shown that applicant desires to establish the proposed automotive service auxiliary or supplemental to the rail service of its parent railroad company. Such service will be for the movement of minimum loads of five tons of less-than-carload traffic. He further stated that the use of the route between Auburn and Grass Valley is sought because of a gross weight limit of eight tons, including vehicle and load, now in force on the highway between Colfax and Nevada City, and that such limits are not in force on the road between Auburn and Grass Valley. During the winter seasons severe snow conditions often prevail at the Colfax terminal which would impede the operation of trucks. Such conditions are not as prevalent at Auburn and operations to and from there would be less handicapped.

Mr. Taylor also stated that the railroad has had numerous requests for expedited movements of less-than-carload freight which can be more expeditiously and economically handled by truck. The freight car capacity of the Colfax railroad yards is limited to eight standard gauge cars on the transfer tracks and there are many times when as many as forty cars have been set out at that point. If authority for the proposed service is acquired, applicant will then be in a position to handle a portion of this traffic from Auburn, relieving the congested yard situation at Colfax.

There is no proposal herein to abandon any train service, the authority sought being in addition thereto and to be co-ordinated therewith.

In the application it is proposed that the rates to be charged are those published by the railroad company. The rates over Colfax shall apply to traffic moving to or from Auburn as well as that moving to or from Colfax. But, at the hearing, Mr. Taylor stated that applicant was willing to publish its own tariffs or become a party to the tariffs of the railroad.

No one appeared in protest to the granting of the authority sought.

From the record it is our conclusion, and we so find, that public convenience and necessity require the establishment of the proposed service. Therefore, a certificate will be granted. However, such certificate will be conditioned upon applicant publishing its own tariffs.

Nevada County 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.

O R D E R

An application having been filed as above-entitled, a public hearing having been held thereon, 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 require the establishment and operation by Nevada County Trucking Company, a corporation, of an automotive truck service as a highway common carrier, as such term is defined by section 2-3/4 of the Public Utilities Act, over the public highways between

- (a) Colfax and Nevada City and intermediate points, via Grass Valley;
- (b) Auburn and Nevada City and intermediate points, via Grass Valley, provided that no service shall be rendered to or from any point intermediate to Auburn and Grass Valley.

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

1. The service performed by applicant shall be limited to that which it receives from or delivers to a rail connecting carrier either at Colfax or Auburn and all of said shipments shall receive, in addition to the movement by applicant, a prior or subsequent movement by rail.
2. The authority herein granted shall lapse and be void if applicant 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.
3. 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.
4. Applicant shall commence the service herein authorized within a period of not to exceed sixty (60) days from the effective date hereof and shall file, in triplicate, and concurrently make effective upon not less than ten (10) days' notice to the Railroad Commission and the public a tariff or 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 satisfactory to the Railroad Commission.
5. Applicant shall file, in triplicate, 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 10th day of September, 1940.

Ray L. Rice
Frank D. Miller
Raymond W. Bishop
H. B. Allen
Justus J. Quamer
COMMISSIONERS