

Decision No. 33560.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
PACIFIC ELECTRIC RAILWAY COMPANY, a  
corporation, for permission to make  
certain changes in its rail system,  
including abandonments of certain  
portions of its railway lines, and  
discontinuance or reduction in rail  
passenger service on certain other  
portions of its railway system.

ORIGINAL

Application No. 23053.

(APPEARANCES as shown in Decision No. 33088).

RILEY, COMMISSIONER:

O P I N I O N

All of the many matters involved under the above entitled application and associated proceedings, <sup>(1)</sup> dealing with the operations of applicant, have been disposed of by prior orders, <sup>(2)</sup> except the issues related to the transportation of freight by truck between Los Angeles, on the one hand, and the areas known as San Fernando Valley and the Redondo Beach-Inglewood district, on the other.

This application was filed on October 18, 1939, seeking authority to make numerous changes in rail and motor coach operation

---

(1) Application No. 17984 - 40th Supplemental  
" " 18820 - 18th "  
" " 18820 - 19th "  
" " 21656 -

(2) Decision No. 30783 dated April 11, 1938  
" " 32599 " December 5, 1939  
" " 32703 " January 2, 1940  
" " 32830 " February 2, 1940  
" " 32858 " March 5, 1940  
" " 33088 " May 14, 1940  
" " 33161 " May 28, 1940

substantially in accordance with the plan set forth in Exhibits Nos. 73 and 87. (3) Many hearings were held in the consolidated proceeding and the matter finally was submitted on January 24, 1940.

Pacific Electric Railway Company is a corporation existing under the laws of the State of California, engaged in the business of operating an extensive common carrier local, suburban and interurban rail and motor coach system, primarily for the transportation of passengers and freight throughout the Los Angeles Metropolitan area and adjoining territory of Southern California.

Freight business is conducted from Los Angeles over applicant's San Fernando Valley rail line in conjunction with passenger service to North Sherman Way; at this point passenger operations terminate and freight service proceeds over two separate branches to San Fernando on the one hand and to Canoga Park on the other.

Similarly, freight service by rail is provided to the Redondo Beach area over common track with a portion of the Los Angeles-Redondo Beach passenger operation, and to Inglewood via an exclusive freight line.

In this proceeding applicant seeks authority to substitute truck for rail operation in the transportation of freight over the above described routes. Authority is also sought to abandon rail facilities on the two branches of applicant's San Fernando line beyond North Sherman Way, except for that portion of the San Fernando Branch from Chatsworth Avenue to the point of connection with Southern Pacific Company's tracks in the City of San Fernando. These lines are devoted exclusively to freight business, passenger service having been replaced by motor coach operation.

Under the proposed plan of substituting truck for rail operation, applicant proposes to transport by truck the same class

---

(3) Exhibit No. 73, filed by Commission's Engineers April 5, 1939  
Exhibit No. 87, " " " " June 6, 1939

of commodities now carried by box motor, consisting of interline baggage, less-than-carload freight, U. S. mail and Railway Express Agency express. It is not proposed to enter into the general transportation of freight by truck which might be termed local to the district adjacent to the proposed truck lines.

Applicant's proposal of truck substitution for rail operation was opposed by Keystone Express System, a highway common carrier by truck which now operates between the Los Angeles and the San Fernando Valley areas, upon the contention that its operations are now adequately serving the area and that it is ready, willing and able to transport any and all classes of commodities now handled by applicant's rail service, and will do so at a rate of 22 cents per hundred pounds for movements between Los Angeles and San Fernando Valley points.

Exhibits submitted by applicant show that, upon the basis of current movements, 579 tons of traffic would be handled into and out of the area now served in the San Fernando Valley and that the annual cost to applicant of handling by truck would be \$6,054, or 52.3 cents per hundred pounds, as compared with the offer of protestant of 22 cents. Applicant estimated an annual revenue to be derived from the operation in amount of \$12,865, which, after deducting the cost set forth above, would result in a net profit of \$6,811. Assuming the same revenue and tonnage, at the rate proposed by Keystone Express System, of 22 cents, the net profit would be \$10,317.

It is the contention of the Keystone Express System, as well as the Southern California Freight Lines, protesting that portion of the application seeking a certificate to operate truck service in lieu of rail operation between Los Angeles and the El Segundo-Redondo Beach area, that applicant herein is proposing a new type of service in these areas and that, based upon past decisions of this Commission, a certificate for such operations can consistently be granted only upon

an affirmative showing of convenience and necessity.

Based upon citations of points and authorities, protestants contended that all applications must be given equal treatment, that a certificate cannot be granted to a rail line to continue express service, when rail service is abandoned, if there are existing truck carriers able and willing to handle the express traffic, and that if applicant wishes to continue to handle freight after abandonment of rail facilities, it may do so on a joint rate arrangement with the truck operators in the field. It was contended that applicant could enter into tri-party agreements with Railway Express Agency and protestants, whereby it could retain some of the revenue now obtained from such express traffic in consideration of its furnishing terminal facilities to the express agency, and that protestants would obtain their compensation on the basis of a per hundred weight division for the line haul between Los Angeles and the affected points. There is nothing in the record to show that Railway Express Agency would be willing to or desirous of entering into such an agreement, where a division would have to be made of its revenues between three parties, when it would be a simple matter to make a two-party agreement between the express company and the respective protestant, eliminating applicant who, in fact, under such a plan, would have nothing to do with the actual transportation of the commodities other than possibly furnish the station facilities.

In answer to protestants, applicant contends that it is not proposing a new service but a truck operation in substitution for existing rail service, for the purpose of handling express and less-than-carload freight business on a more economical basis than that in effect at the present time, and that the service proposed is not one where applicant seeks a new competitive privilege in a field occupied by protestants, but that the certificate sought is for the purpose of continuing to render the same common carrier service now rendered by rail, through the instrumentality of trucks operated over the highways. Applicant contends that ample evidence has been

introduced to show the existence of convenience and necessity, in that a presently established service by rail is proposed to be discontinued and a motor truck service, operating over the highways, substituted in lieu thereof.

Applicant agreed that a railroad can make joint through rates with motor trucks but was not informed as to how such joint through rates could be applied to commodities which applicant is in no position to handle, and expressed doubt as to the possibility that the slight use which might be made of its station facilities would justify the Railway Express Agency in engaging applicant's services to any material extent. It was further pointed out by applicant that the truck certificate sought herein was but one step in the proceeding now pending, wherein applicant is endeavoring to better its financial condition to the end of retaining, as far as possible, the common carrier service it now renders to its patrons in Southern California.

In considering the proper disposition of this portion of the application, it must be kept in mind that, through prior interim orders, this Commission has urged upon applicant the necessity of taking steps to reduce its operating deficit through the abandonment of non-profitable rail operations, both passenger and freight, and the substitution, where sufficient patronage existed to warrant, of motor vehicles operating over the highways, in replacement of the more costly rail operation. In this program it has been consistently urged that applicant overlook no opportunity of effecting economies wherein such economies would not react adversely to the public interest. Abandonment of rail freight service in the San Fernando Valley and on the Los Angeles-Redondo Beach line was recommended by the Commission's engineers in their comprehensive survey of applicant's entire operations and presents a direct parallel to those instances where motor coach operation in passenger service was recommended in substitution for rail service.

Perusal of the evidence submitted in this record indicates the disadvantage of retaining the many miles of track and roadway and electrical overhead distribution facilities in the San Fernando Valley and the continued expenditure of large sums of money for the maintenance of that plant, when compared with the relatively small amount of business handled. This appears to be a case which differs from many other applications brought before the Commission where a rail carrier seeks authority to substitute truck for rail service through a subsidiary organization. Here we find a condition where the applicant can materially better its earning position by substituting its own truck operation over the highways in lieu of existing rail service.

If applicant should deem it wise to abandon electrical overhead distribution facilities and the electrically propelled box motor, and to substitute, in lieu thereof, a diesel or gas propelled combination locomotive and freight car, which in itself would result in some economy of operation and maintenance, there probably would be no objection on behalf of protestants. The present application is inherently no different, in so far as principle is concerned, excepting that it does anticipate the economy which can be effected by a revision of facilities. Applicant does not propose to expand its truck service into the field served by protestants and has expressed its willingness to be restricted, as to the commodities it shall handle, to those which shall have had a prior or shall have a subsequent common carrier haul. Most of the less-than-carload and express business handled by applicant in the San Fernando Valley falls within this category and such a restricted certificate would protect its interests in the territory it now serves and the imposition of such a restriction would preclude applicant from handling purely local traffic between Los Angeles and Valley points.

The contention of protestants - that applicant would derive a greater degree of benefit financially by accepting the rate offered into San Fernando Valley, of 22 cents per hundred pounds - is sound,

when based upon the traffic now carried by applicant; however, this obviously is due to the present small volume of that traffic and, in the future, if an increase in business should be experienced, applicant's cost of handling would be correspondingly reduced upon a unit basis. This is exemplified by the evidence of record relative to the proposed truck line in the El Segundo-Redondo Beach area, wherein the volume of business is considerably larger than that handled in the San Fernando Valley. On that operation, with its larger volume of traffic, applicant has shown that its cost will be 11.2 cents per hundred pounds, as compared with 52.3 cents in the San Fernando Valley service.

The record shows that applicant would materially improve its earnings by operating its own truck line in substitution for its present rail service. It further shows that even larger savings could be effected by employing the services of protestant, Keystone Express System, which offers to transport these shipments on a basis of 22 cents per hundred pounds, as compared to a cost of 52.3 cents to applicant by use of its own trucks. In disposing of this matter, sight must not be lost of the paramount objective of the rehabilitation program of applicant's operations, wherein concerted effort has been made to effect the maximum economies consistent with preserving a reasonable standard of service to the public. There is no issue involved here wherein the adequacy of service now provided by applicant is seriously questioned, nor is there any indication that the proposed service by truck will reduce the existing standard of service.

Analysis of the record in this proceeding fails to disclose any evidence in support of the position assumed by protestant Keystone Express System, other than the showing of increased savings which applicant might enjoy by accepting the proposal of protestant. Based upon estimates of cost and present freight volume, that increased saving amounts to \$3,506.

Freight tonnage is not a static element, but fluctuates

from year to year, and in a developing area such as that served by lines of applicant in San Fernando Valley, it is reasonable to expect an increase rather than a decrease. Furthermore, the rate of 22 cents per hundred pounds offered by protestant is not accompanied by any form of assurance as to its permanance.

Even assuming no improvement in future freight volume and that the rate offered by protestant should be enduring, the small differential of gain in amount of \$3,506 cannot be construed as justification for depriving applicant of its right to independently continue providing service to an area in which it has been established for many years.

In addition to the passenger rail service provided by applicant to Redondo Beach via Playa del Rey, freight operation is also conducted over that portion of the line beyond Culver Junction. Applicant requested authority to discontinue its passenger rail service between Los Angeles and Redondo Beach and intermediate points, substituting motor coach operation in lieu thereof, and to abandon its rail facilities beyond Alla, the point at which the Inglewood freight line crosses the Redondo Beach line. Authority was granted by prior interim order in this proceeding for carrying out that program.

In the interest of retaining the less-than-carload freight and express business it now handles on the Redondo line, after abandonment of rail facilities, applicant requests a certificate of public convenience and necessity for the operation of a truck service in lieu thereof. At present these commodities are handled by box motor between Los Angeles on the east and El Segundo, Manhattan Beach, Hermosa Beach and Redondo Beach on the west. Applicant contends that such truck operation is necessary in order that it may continue to give its patrons along this line expeditious through-rate, trans-continental service to and from points throughout the United States. It is also proposed to include Inglewood in the area to be served by



the proposed truck line, as that city is now served by box motor, although not on the Redondo Beach line.

The proposal was opposed by two common carrier truck operators now serving the area, on the grounds that their existing truck operations are now adequately serving the area proposed to be served by the truck line of applicant. Southern California Freight Lines contended that it was ready, willing and able to transport any and all commodities now handled by applicant's box motor operation and would conduct such a service for applicant at a rate of 15 cents per hundred pounds of freight between Los Angeles and points proposed to be served by the truck lines of applicant, as compared to applicant's estimated cost of approximately 11 cents per hundred pounds by using its own trucks. On the basis of present operations, applicant estimated the annual volume of traffic that would move over its proposed truck line to be 2,695 tons, at a cost of \$6,051, and revenues to be derived therefrom were estimated at \$37,722, producing a net profit of \$31,671 annually.

Applicant's position relative to its proposed truck line in the Los Angeles-Redondo Beach area and the offers and protests of existing carriers are substantially the same as those set forth above in connection with the proposed San Fernando Valley operations, including the proposal to accept a certificate restricted to the handling of traffic by truck, that has had either prior or shall have subsequent common carrier haul.

This is not an instance where the rail carrier is asking authority to establish a truck operation through a controlled motor vehicle trucking agency, but is the request of an existing carrier to be allowed to handle its traffic by another type of vehicle, in order to effect economies of operation and, in so doing, is agreeable to a restriction denying it the right to transport strictly local traffic along the route and thus protect such interests of carriers already in the field.

This record justifies the conclusion that applicant should be granted a certificate for truck service as a highway common carrier between Los Angeles and points in the Redondo Beach-Inglewood area on the one hand, and between Los Angeles and points in the San Fernando Valley on the other, restricted to the transportation of the same character of traffic as is now being moved by box motor and limited to traffic having a prior or subsequent rail haul. This conclusion is based upon the fact that in so handling commodities the same as or similar to those heretofore carried by it, subjected to prior or subsequent rail haul, applicant is not proposing to inaugurate new service, but proposes to continue providing the same service through a new medium of transportation and serving only the same points as heretofore served. It appears that applicant's request in this instance is reasonable and should be granted.

Pacific Electric Railway 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.

#### ORDER

Pacific Electric Railway Company having applied to the Commission for an order authorizing substitution of truck operation over the highways in lieu of rail freight service on its San Fernando Valley lines and on its Redondo Beach and Inglewood lines, public hearings having been held in the matter, and the Commission being fully apprised in the premises:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY

DECLARES that public convenience and necessity require the establishment and operation by Pacific Electric Railway Company of an automotive service as a highway common carrier, as that term is defined in Section 2-3/4 of the Public Utilities Act:

- (a) Between its freight station in downtown Los Angeles on the one hand, and points in the vicinity of and including Inglewood, El Segundo, Redondo Beach and Torrance on the other, over and along the following described route:

Commencing at Pacific Electric Railway Company's freight station at Seventh and Alameda Streets, thence to Pacific Electric Railway Company's baggage room at Sixth and Los Angeles Streets, thence via Los Angeles Street, Washington Boulevard, Main Street and Manchester Avenue to Inglewood, thence via Manchester Avenue, La Tijera Boulevard and Sepulveda Boulevard to El Segundo, thence via Center Street to Manhattan Beach, thence via Coast Highway through Hermosa Beach to Redondo Beach, returning from Redondo Beach via Torrance Boulevard to Torrance, thence via El Prado, East Road and Vermont Avenue to Manchester Avenue, thence over the reverse of the outbound route.

- (b) Between its freight station in downtown Los Angeles, on the one hand, and San Fernando-Canoga Park, on the other, over and along the following described route:

Commencing at Pacific Electric Railway Company's freight station at 7th and Alameda Streets, thence to Pacific Electric Railway Company's baggage room at 6th and Los Angeles Streets, thence to Los Angeles Union Passenger Terminal at Alameda and Aliso Streets, thence to Hollywood via Sunset and Santa Monica Boulevards, thence to North Hollywood via Highland Avenue, Caluonga Boulevard and Lankershim Boulevard, thence to Van Nuys via Lankershim Boulevard and Victory Boulevard, thence to Reseda and Canoga Park via Sherman Way, returning via Sherman Way to Sepulveda Boulevard, thence to San Fernando.

IT IS HEREBY ORDERED:

I. That a certificate of public convenience and necessity be and it is hereby granted to Pacific Electric Railway Company for an automotive service as a highway common carrier over and along the routes as hereinbefore described, subject to the following conditions:

- (1) Pacific Electric Railway Company shall file written acceptance of the certificates herein granted within a period of not to exceed thirty (30) days from the date hereof.
- (2) Pacific Electric Railway Company shall provide or cause to be provided the service herein authorized within a period not to exceed six (6) months 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, a tariff or tariffs, together with copies of the agreement referred to in Condition (1) above, 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 contained in existing tariff or tariffs applying to rail operation.
- (3) Pacific Electric Railway Company shall file in duplicate, and make effective within a period of not to exceed six (6) months 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, as attached to the application, covering the service herein authorized, in a form satisfactory to the Railroad Commission.
- (4) The rights and privileges herein authorized may not be discontinued, sold, leased, transferred or assigned, unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been obtained.
- (5) No vehicle may be operated by Pacific Electric Railway Company, 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.
- (6) Pacific Electric Railway Company 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.
- (7) Commodities handled by the service herein authorized shall be restricted to interline baggage, mail, less-than-carload freight and express, and no freight or express shall be carried unless it shall have had a prior or shall have a subsequent rail haul.
- (8) Points of delivery and receipt of commodities shall be confined to those stations at which such delivery and receipt are now made by the existing rail service of Pacific Electric Railway Company.

II. That the motor vehicle freight service herein authorized shall be established coincidentally with the abandonment of rail freight service to the same communities as previously authorized by Decision No. 32599, dated December 5, 1939, in these proceedings.

III. That the Commission shall and it does hereby retain jurisdiction over this proceeding for the purpose of making, from time to time, such further investigation or investigations and making and rendering such further order or orders as in its discretion may be deemed proper and necessary, and as the public interest may require.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission of the State of California.

For all other purposes the effective date of this Order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this <sup>th</sup> 12 day of November, 1940.

Ray & Riley

Ray & Riley

M. B. Hall

Justus J. Cramer

(COMMISSIONERS)