

Decision No. 23203

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
PACIFIC MOTOR TRUCKING COMPANY, a )  
corporation, for a certificate of )  
public convenience and necessity to )  
operate motor vehicles for the trans- )  
portation of property over the public )  
highways between Lone Pine, Searles and )  
Mojave, California, and to consolidate )  
such operations with existing operations )  
between Lone Pine, Lone Pine Station )  
and Benton, California. )

**ORIGINAL**

Application No. 23203

WILLIAM MEINHOLD and R. E. WEDEKIND, for Applicant,  
and for Southern Pacific Company, Interested Party.

PHIL JACOBSON, for Western Truck Lines, Ltd. and for  
Pacific Interurban Express, Protestants.

FRANK BOOTH and C. A. GINGERY, for Sierra Talc  
Company, Protestant.

W. A. BURKE, for Kaolin Corporation, Protestant.

HARRY SEE, for Brotherhood of Locomotive Trainmen  
and Brotherhood of Locomotive Firemen and  
Enginemen, Protestants.

REV. J. J. CROWLEY, for Inyo Associates, Interested  
Party.

E. W. BUB, for Pacific Alkali Company, Interested  
Party.

GLENN D. TINDER, for United States Vanadium Corpora-  
tion, Interested Party.

CRAEMER, Commissioner:

O P I N I O N

Pacific Motor Trucking Company, a corporation, by applica-  
tion seeks a certificate of public convenience and necessity  
authorizing the establishment and operation of a service as a high-  
way common carrier of property between Lone Pine and Mojave and  
certain named intermediate points located on the rail line of  
Southern Pacific Company for the transportation of the less-carload

traffic of Southern Pacific Company and Railway Express Agency, Incorporated, between such points. The authority is sought as an extension and enlargement of the present highway common carrier operative rights of applicant, in general, between Lone Pine, Lone Pine Station, (Southern Pacific) and Benton, via Bishop and Laws.

The routes to be traversed in the proposed operation are as follows:

- (a) From Lone Pine to Mojave via U. S. Highway No. 6.
- (b) From the intersection of U. S. Highways No. 395 and No. 6, at a point approximately one mile westerly of Brown, along U. S. Highway No. 395 to the intersection of U. S. Highway No. 395 with an unnumbered highway northerly of Randsburg; thence via said unnumbered highway to its intersection with U. S. Highway No. 6.
- (c) From the intersection of U. S. Highway No. 395 with an unnumbered highway at Inyokern; thence via said unnumbered highway to its intersection with U. S. Highway No. 6.

The proposed rates conform with those of Southern Pacific Company and Railway Express Agency now on file with the Commission or as they may be changed from time to time. The manner of publishing such rates by applicant would be by concurrence in the rates of Southern Pacific Company. It is proposed to provide service daily except Sundays, between Lone Pine and Mojave and at twenty-six rail stations of the Southern Pacific Company which are intermediate thereto <sup>(1)</sup> and within a radius of one mile thereof. Applicant is now providing pickup and delivery service at Lone Pine and at Mojave.

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(1) As shown in Exhibit No. 1 the intermediate rail stations are:

Diaz	Sykes	Code	Gypsite
Bartlett	Coso	Rademacher	Ceneda
Monachee	Little Lake	Cantil	Saltdale
Cartago	Linnie	Neuralia	Garlock
Olancha	Brown	Cambio	Rand
Loco	Leliter	Chaffee	Searles
Haiwee	Inyokern		

Four days of public hearing thereon was held as follows: at Lone Pine February 24, 1940, at Los Angeles April 24, 1940, at Lone Pine and Bishop on April 25, 1940, and at Lone Pine on August 15, 1940, at the conclusion of which the matter was taken under submission. The hearing on February 24 and August 15, 1940, was before Examiner Paul.

Applicant is a wholly owned subsidiary of Southern Pacific Company whose rail system includes a branch line known as the Owenyo Branch which extends from the Southern Pacific main line at Mojave northerly 143.5 miles through Searles, Inyokern, Brown and other points to Owenyo a point 4.2 miles north of its rail station near Lone Pine. This branch line connects at Searles with the rail line of Trona Railway Company, which operates between Searles and Trona, and at Owenyo with a narrow gauge rail line of Southern Pacific Company extending from Keeler through Owenyo and Laws to Benton, California.

#### The Evidence as to the Present Southern Pacific Service

Southern Pacific is now operating a mixed train daily except Sunday, round trip, between Mojave and Owenyo through Searles, transporting passengers, express, and carload and less-carload freight. It is also operating a freight train daily except Sunday, round trip, between Mojave and Searles, limited primarily to carload shipments. The mixed train serves the intermediate rail points including Searles, Brown and Lone Pine. The Lone Pine car contains all merchandise destined to Lone Pine and points north thereof to and including Benton. At Lone Pine the merchandise is transferred to the trucks of applicant which leave there about 8:30 A.M. serving the territory north thereof to and including Laws on a daily schedule. The territory from Laws to and including Benton is served by applicant's trucks on Tuesdays only.

It was shown that during a selected month of the year 1939 241 less-carload shipments moved from Los Angeles and points between Los Angeles and Mojave and other California points to Cantil, Salt-dale, Searles, Inyokern, Brown, Little Lake, Sykes, Olancho, Cartago, Bartlett and Lone Pine and that eighteen shipments moved in the opposite direction between such points. <sup>(2)</sup> Forty-five interstate shipments also moved to such points. It was also shown that during the year 1939 Southern Pacific handled 3,902 tons of less-carload traffic including merchandise, express, and United States mail, to and from points north of Mojave. Of such traffic, 2,775 tons moved to or from Lone Pine and points north thereof; 1,096 tons moved to and from points intermediate to Brown and Mojave, including Searles; and 31 tons moved to and from Brown and points intermediate to Brown and Lone Pine, excluding Lone Pine. The daily average weight (313 days yearly) of this traffic amounted to 8.9 tons, 3.5 tons, and 200 pounds, respectively. It is this traffic which applicant desires to handle by the proposed operation. However, the traffic to and from Lone Pine and points north thereof is now handled by applicant in its truck operation between Lone Pine and Benton.

The Evidence as to the Proposed Service

Under the proposed service Mojave will be the break-bulk point for all less-carload traffic including express and United States mail destined to points on the Owenyo Branch, the narrow gauge rail line, and the Trona Railway. This traffic will be transported by two motor units on a daily except Sunday schedule. Southern Pacific will continue to operate a daily except Sunday, round trip, rail service between Mojave and Searles for carload traffic. The mixed train which is now operated between Mojave,

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(2) From Exhibit No. 4.

Searles, and Owenyo on a daily, round trip, except Sunday basis will operate under the proposal from Owenyo to Searles on Tuesdays, Thursdays, and Saturdays, and from Searles to Owenyo on Wednesdays, Fridays, and Sundays.

One of the motor units consists of a tractor, semi-trailer and trailer. All traffic destined to Bishop and points beyond, including mail, express, and less-carload merchandise will be loaded into the semi-trailer into which also will be loaded United States mail and express destined to points intermediate to Lone Pine and Bishop. The trailer will carry all mail, express, and less-carload traffic destined to the territory between Lone Pine and Brown, both points inclusive. The trailer also will carry less-carload merchandise traffic destined to points beyond Lone Pine to but not including Bishop. Upon the arrival of this unit at Lone Pine, the trailer will be disconnected, the tractor and semi-trailer proceeding to Bishop where deliveries will be made. A tractor at Lone Pine will hook onto the trailer, left by the unit just described, and provide service at Lone Pine, Brown, and intermediate points, and points intermediate to Lone Pine and Bishop.

Service to points between Mojave and Brown, excluding Brown, will be provided by the second motor unit which will be stationed at Inyokern. It will operate from Inyokern through Searles to Mojave performing outbound pickup service which will be interchanged at Mojave with Southern Pacific. At Mojave this truck will pick up less-carload merchandise, express, and United States mail destined to all points between Mojave and Brown, but not including Brown. It will leave Mojave at 2:00 A.M. daily except Sundays. In addition to handling traffic for Southern Pacific at Mojave this truck will also interchange traffic with the Trona Railway at Searles.

Under the present co-ordinated rail and truck service between Mojave and Laws the elapsed time is approximately 11 hours and 25 minutes. Under the proposed co-ordinated rail-truck service such elapsed time would be reduced to 8 hours and 55 minutes. Under this proposal shipments would arrive at Laws 2 hours and 30 minutes earlier than under the present method of operation. Likewise at Lone Pine shipments would arrive 45 minutes earlier and at other intermediate points corresponding savings in time would be made.

The Evidence as to Costs and Economies

It was shown that under the proposed operation Southern Pacific would be enabled to effect a net rail operating economy of \$42,237 annually. (3)

(3) Exhibit No. 3.

SOUTHERN PACIFIC COMPANY  
(Pacific Lines)

RAIL OPERATING ECONOMIES PER ANNUM THAT WILL RESULT FROM  
COORDINATED RAIL-TRUCK SERVICE, AS PROPOSED IN CASE CRC-23203

(A) - Rail Operating Savings:

Curtailment in train operation.                      Train miles - 60,221.

Out-of-pocket cost:

Wages - Trainmen and Enginemen . . . . .	\$24,949	
Fuel Oil . . . . .	9,086	
Locomotive repairs . . . . .	11,289	
Enginehouse expense, locomotive supplies and train supplies and expenses . . . . .	3,899	
Car repairs . . . . .	3,552	
M. of W. expenses affected by traffic . . . . .	2,508	
Southern Pacific Co. proportion of Railway Express Messenger Service. . . . .	2,342	
Taxes: Social Security and Railroad Retirement Acts. . . . .	1,497	
Total train service saving . . . . .		\$59,122

(B) - Additional Rail Operating Cost:

Increase station expense at Mojave . . . . .	\$ 3,412	
Increase helper locomotive service from Searles to Mojave . . . . .	6,537	
Total increase rail cost . . . . .		\$ 9,949
 Rail Operating Saving Per Annum . . . . .		\$49,173
Loss in Mail Revenue . . . . .		<u>6,936</u>
 Net Rail Operating Economy . . . . .		\$42,237

It was also shown that the estimated total cost of the proposed truck service would be \$23,612 annually. From this it will be seen that an annual net benefit would accrue to Southern Pacific Company in the amount of \$18,625.

The Evidence from the Testimony of Public Witnesses

Eighteen public witnesses testified on behalf of applicant. Six of them represented shippers from Los Angeles. Their consensus was that the proposed expedited service of applicant to Owens Valley points would be a benefit to them and to their customers. However, it was not shown from the testimony of these witnesses that shipments are being made to any points intermediate to Mojave and Lone Pine, except as to two, Little Lake and Olancho. It was further shown from such testimony that the preponderance of this traffic was moving to Lone Pine and points north thereof including Big Pine, Bishop, and Independence.

The remaining twelve witnesses were from Lone Pine, Bishop, and Laws. It should be noted that these witnesses are from communities which are now being provided with service by applicant which appears from the record to be co-ordinated with the present Southern Pacific service. While some of them indicated satisfaction with the present service, others stated that they are in need of an earlier pickup and delivery service by applicant which can be provided under the proposed operation.

Protestants

Western Truck Lines, Ltd., a highway common carrier operating between Los Angeles, Mojave, Lone Pine, Bishop, June Lake, Silver Lake, and intermediate points, subject to certain restrictions between Los Angeles and Mojave, as well as between Lone Pine and Bishop, opposed the granting of the application.

In support of its position it was shown that it is providing a daily except Sunday service between the points it serves. It maintains an office at Lone Pine and at Bishop with agents. It also maintains pickup and delivery trucks there and is contemplating the erection of a terminal at Bishop as soon as an appropriate site is obtained. Three public witnesses residing at Olancho testified in support of this opposition. They stated that the community at Olancho is about one mile from the Southern Pacific rail station of the same name; that they are adequately served by the present truck carrier in the field; and that they have no need for any additional service.

The contemplated reduction in rail service by Southern Pacific Company is opposed by Sierra Talc Company. This company operates a talc mill at Keeler on the narrow gauge line. During 1939 it shipped a total of 786 narrow gauge carloads of talc from Keeler which would be equal to approximately 216 standard gauge cars. This company is fearful that such contemplated reduction in rail service would affect about twenty-five per cent of its business. It was particularly concerned with what it called "rush orders" which include approximately ten per cent of its business. It was stated that in a number of instances it receives a last minute request for shipments to make connections with vessels operating from Los Angeles Harbor. In some cases the shipments do not arrive in Los Angeles for a particular vessel and it would be some time before another vessel departs. Its opposition was based entirely upon the collateral matter involving the contemplated reduction of carload rail service.

#### Summary and Conclusions

Applicant requests authority to perform pickup and delivery service at twenty-six rail stations of Southern Pacific Company



intermediate to Lone Pine and Mojave and within a radius of one mile of such stations. However, there is nothing in this record to show a public need for such service. This record clearly indicates that all the traffic applicant proposes to transport under the certificate sought is that which heretofore has been transported over the rails of Southern Pacific Company and that under the proposal applicant would continue to move that class of traffic at a substantially lower cost and at the same time improve the service to the public.

There is nothing in the record that tends to indicate that the proposed operation, if established, would adversely affect the operations of Western Truck Lines, Ltd. to any serious extent, if at all.

The opposition of Sierra Talc Company to the contemplated reduction of Southern Pacific Company's rail service is a question which should be considered upon its merits. The present carload service of Southern Pacific to and from its plant need not necessarily be greatly affected by the establishment of the proposed service. If the rail carrier fails to provide adequate service, the remedy lies in bringing the matter to the attention of this Commission.

From this record there is no question as to the public benefit to be derived through the establishment of the proposed service. It is clear from the evidence adduced herein that there is a need for improvement of the present service provided by applicant to and from Lone Pine and points north which can be put into effect by the establishment of the proposed operation.

Viewing the record as a whole, it is my opinion and I so find that there is a public need for the establishment of a highway

common carrier service by applicant to be co-ordinated with and operated supplemental to that of Southern Pacific Company between Mojave and Lone Pine and the rail stations of Southern Pacific Company intermediate thereto, hereinbefore enumerated, for the handling of less-carload rail traffic of Southern Pacific Company and traffic of Railway Express Agency, such service to be operated as an extension and enlargement of applicant's present highway common carrier service between Lone Pine and Benton and intermediate points. I, therefore, recommend the form of order hereinafter set forth.

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 to the number of rights which may be given.

O R D E R

Pacific Motor Trucking Company, a corporation, having made an application as above entitled, a public hearing having been held, evidence received, the matter duly 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 Pacific Motor Trucking Company, a corporation, of an automotive service as a highway common carrier, as that term is defined in section 2-3/4 of the Public Utilities Act, for

the transportation of property for compensation between Lone Pine and Mojave and the intermediate rail stations of Southern Pacific Company at

Díaz	Sykes	Code	Gypsite
Bartlett	Coso	Rademacher	Ceneda
Monachee	Little Lake	Cantil	Saltdale
Cartago	Linnie	Neuralia	Garlock
Olancha	Brown	Cambio	Rand
Loco	Leliter	Chaffee	Searles
Haiwee	Inyokern		

as an extension and enlargement of applicant's present highway common carrier service between Lone Pine and Benton, via Independence, Bishop, and Laws as created by the Commission's Decisions No. 22183 and No. 23254, in Application No. 16323; Decision No. 26017, in Application No. 18892; Decision No. 26863, in Application No. 19340; and Decision No. 31997, in Application No. 22358, over and along the following routes:

- (a) From Lone Pine to Mojave via U. S. Highway No. 6.
- (b) From the intersection of U. S. Highways No. 395 and No. 6, at a point approximately one mile westerly of Brown, along U. S. Highway No. 395 to the intersection of U. S. Highway No. 395 with an unnumbered highway northerly of Randsburg; thence via said unnumbered highway to its intersection with U. S. Highway No. 6.
- (c) From the intersection of U. S. Highway No. 395 with an unnumbered highway at Inyokern; thence via said unnumbered highway to its intersection with U. S. Highway No. 6.

subject, however, to the following restrictions:

1. The foregoing service shall be limited to that which is auxiliary to, or supplemental of, the rail service of Southern Pacific Company, and as underlying carrier for any express corporation duly authorized to operate to or from the foregoing points.
2. Applicant shall not render service to or from nor interchange traffic at any point not a station on the rail line of Southern Pacific Company, provided, however, that at Searles traffic may be interchanged with Trona Railway Company at its station.

3. Shipments transported by applicant by motor vehicle shall be limited to those which, in addition to the movement by motor vehicle, shall have either a prior or subsequent movement by rail.
4. Applicant may render store-door pickup and delivery service at the points hereinabove named only within the pickup and delivery zones for each respective point as described and published in the tariff or tariffs of the Southern Pacific Company currently on file with this Commission and in effect.

IT IS ORDERED that a certificate of public convenience and necessity therefor hereby is 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 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. 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.
3. Applicant shall commence the service 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, 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 identical with the rates and rules shown in the tariffs of Southern Pacific Company in so far as they conform to the certificate herein granted or rates and rules satisfactory to the Railroad Commission.
4. 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.
5. 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.

6. 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.

7. 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.

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.

Dated at San Francisco, California, this 21<sup>st</sup> day of December, 1940.

W. L. Riley

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Justus I. Coenen  
COMMISSIONERS