

Decision No. 20685

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
PACIFIC MOTOR TRUCKING COMPANY for  
certificate of public convenience  
and necessity for the transportation  
of property by motor truck for other  
common carriers between Watsonville  
Junction and Tres Pinos, and certain  
intermediate points.

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) Application No. 20685  
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**ORIGINAL**

ANSEL WILLIAMS, JR., for Applicant.

EDWARD M. BEROL, for Truck Owners Association  
of California, Interested Party.

EDWARD M. BEROL, E. TRIMMER, and J. J. VIZZARD,  
for Highway Transport, Inc., Protestant.

JACKSON W. KENDALL, for Bekins Van Lines, Inc.,  
Protestant.

BY THE COMMISSION:

O P I N I O N

Pacific Motor Trucking Company by its amended application herein requests a highway common carrier certificate authorizing it to transport freight and express in the custody of Southern Pacific Company, Railway Express Agency, Inc., and other carriers of like class desiring to use the underlying transportation service of applicant to, from, or between San Jose, Edenvale, Coyote, Madrone, Morgan Hill, San Martin, Gilroy, Carnadero, Sargent, Hollister and Tres Pinos.

Pacific Motor Trucking Company also filed an application with the Interstate Commerce Commission for a certificate to serve the points mentioned above. A consolidated record was made in the two matters at a joint hearing of both commissions held February 16, 1939.

Applicant, a wholly owned subsidiary of Southern Pacific Company, here seeks authority to transport traffic of other common carriers in a continuous movement having either a prior or subsequent haul by rail at the tariff rates of the common carrier for whom it handles such traffic. Less-carload traffic of Southern Pacific Company is presently transported to and from points south of San Jose, excepting Gilroy, which is served by train, to Hollister and Tres Pinos by Security Truck Line under contract with applicant. Railway Express Agency traffic from points south of Gilroy to Hollister and Tres Pinos is also handled by Security Truck Line by arrangement with Pacific Motor Trucking Company. Traffic destined to points south of San Jose, excluding Gilroy, is hauled by Southern Pacific Company freight train to San Jose and from there by truck regularly operated by Security Truck Line on a schedule designed to meet the service requirements of Security Truck Line. Traffic for points south of Gilroy is handled by freight train of Southern Pacific Company to Gilroy and thence by vehicle of Security Truck Line. Under the present method of operation, traffic destined to Tres Pinos is sometimes delayed an extra day at San Jose because Security Truck Line equipment is loaded to capacity with its own traffic.

The co-ordinated service Pacific Motor Trucking Company proposes, contemplates the use of Gilroy as the point of interchange between rail and truck operations. The plan provides that a truck will leave Gilroy for San Jose at 7:00 A.M. serving the intermediate points of San Martin, Morgan Hill, Madrone, Coyote and Edenvale. The return trip departing at 1:00 P.M. from San Jose will enable applicant to pick up emergency shipments arriving in the morning from Los Angeles and deliver them to Gilroy and intermediate points the same day with next morning delivery to

points south of Gilroy. This service is not presently available due to the fact that the equipment of Security Truck Line leaves San Jose before the Los Angeles train arrives. Pacific Motor Trucking Company proposes to operate another truck between Gilroy and Hollister continuing on to Tres Pinos when necessary. If deliveries are to be made to Carnadero and Sargent, an alternate route to Hollister will be used. Applicant desires to render pickup and delivery service at the points above specified.

The testimony of shipper witnesses indicates a preference for rail service. It is also evident that co-ordination of rail and truck facilities in the manner proposed by applicant would be advantageous to such shippers.

A copartner in the Security Truck Line testified that his company could not afford to continue the operations presently conducted for applicant at the rates now assessed and hence did not oppose granting the application. Considerable evidence was introduced relating to the cost of the present and contemplated operations. In 1938 the service rendered cost Southern Pacific Company \$9,342. Security Truck Line requested an increase of \$1,224 a year to continue its arrangement with applicant. It was estimated by Security Truck Line that it would require an additional sum of \$2,142 per year to render the proposed improved operation, thus an annual operating expense of \$12,708 would be needed to provide the service intended if independent truck carriers were used by Southern Pacific Company. However, it was estimated that such service could be furnished by applicant at a yearly cost of \$8,238.

It is applicant's contention that the granting of the certificate requested will result in an improved, expedited

service, increased efficiency, and economy of operation because of the co-ordination and flexibility of rail-truck operations under common management and control.

Highway Transport, Inc., the Truck Owners Association of California, and Bekins Van Lines, Inc. entered appearances at the hearing as protestants. The most active opposition was presented by Highway Transport, Inc. which operates one schedule daily between San Francisco, Hollister and intermediate points. It was stated that if the proposed operation was authorized it would be necessary for this carrier to add another schedule between San Jose and Hollister, leaving San Jose at noon, to meet the competition of applicant. Protestants alleged that if Pacific Motor Trucking Company is permitted to enter the proposed territory present carriers will lose a substantial amount of business. It is contended that the existing service is adequate and that no need for the proposed operation is shown. A fear is expressed by protestants that eventually a complete highway common carrier service controlled by rail will develop if railroads and their subsidiaries constantly acquire new truck rights. Highway Transport, Inc. stated that applicant did not ask them to join in effecting the proposed co-ordination and argues that if there is a need for such service present operators should be afforded opportunity to integrate their services with those of the railroad. It also attacked as too low the figure of \$8,238 which was estimated to be the annual cost to Southern Pacific Company of having the contemplated service performed by applicant.

The independent truck companies concerned testified that they would not handle the traffic of Southern Pacific Company except at a profit. It is reasonable to assume from the record herein that Pacific Motor Trucking Company can operate as economically as

such carriers. This being so obviously Southern Pacific Company will benefit financially, if permitted to use its subsidiary, by the amount of profit paid the independent operator. It is fitting that the railroad should reap such benefit inasmuch as the traffic transported by means of the co-ordinated rail-truck service is rail traffic. The record indicates that Highway Transport, Inc. opposes the granting of the present application because it objects to the principal of a railroad co-ordinating its operations with those of a truck subsidiary to effect improvements in service and not because Highway Transport, Inc. is dependent upon revenue from the area affected or would be injured by the proposed operations.

It is clear that the defined co-ordination of rail and truck operations will improve service in the territory in question which will redound to the public interest. Furthermore, it is plain from this record that the proposed truck service can be rendered by this subsidiary of the railroad with efficiency, flexibility and economy. Although public convenience and necessity warrant authorization of the service in question by Pacific Motor Trucking Company as a supplement to, and integrated with, the rail service of Southern Pacific Company, it does not appear that there is any need for service by applicant except that which is a part of such co-ordinated operation. Hence, the authority granted will be limited to service at points which are stations on the rail line of Southern Pacific Company and to the transportation of traffic having a prior or subsequent movement by such railroad.

Bekins Van Lines, Inc. asked that any certificate granted in this matter prohibit applicant from transporting

household goods, office furniture, fixtures, and equipment. However, as applicant will be authorized to transport only traffic having a prior or subsequent movement by rail and which the railroad holds itself out to haul under its current applicable tariffs, no reason appears for inserting any such commodity restriction as Bekins Van Lines, Inc. requests.

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

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA having taken this matter under submission and having fully considered Application No. 20685, the evidence received at the public hearing held thereon, and the briefs filed herein, now finds and declares that public convenience and necessity require the establishment by Pacific Motor Trucking Company of a highway common carrier service as said term is defined by section 2-3/4 of the Public Utilities Act, for the transportation of freight and express to, from, or between San Jose, Edenvale, Coyote, Madrone, Morgan Hill, San Martin, Gilroy, Carnadero, Sargent, Hollister and Tres Pinos, including the right to render pickup and delivery service at said points, subject to the following conditions:

- A. The service to be performed by applicant shall be limited to that which is auxiliary to or supplemental of rail service of the Southern Pacific Company, hereinafter referred to as the railroad.
- B. Applicant shall not render service to or from, nor interchange traffic at, any point not a station on the line of the railroad.
- C. Applicant shall be limited to the transportation of shipments which it receives from, or delivers to, the railroad and shipments which it transports for express corporations. All of such shipments must receive, in addition to the movement by applicant, a prior or subsequent movement by the railroad.
- D. Applicant may render pickup and delivery service at the points above 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 HEREBY ORDERED that a certificate of public convenience and necessity therefor be and it is hereby granted to Pacific Motor Trucking Company, subject to the following conditions, in addition to those hereinabove specified:

- 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 tariff or tariffs of the Southern Pacific Company, currently on file with this Commission and in effect, 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.

IT IS HEREBY FURTHER ORDERED that said application in all other respects be and it is hereby denied.

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

Dated at San Francisco, California, this 21<sup>st</sup> day of January, 1941.

[Signature]  
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COMMISSIONERS