

ORIGINAL

Decision No. 34274

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 to operate motor trucks over)	Application
the public highways between Los Angeles,)	No. 21083
Glendale and Burbank, and between Los)	
Angeles and Alhambra, in Los Angeles)	
County, California.)	

R. E. WEDEKIND, for Pacific Motor Trucking Company, Applicant.

WALLACE K. DOWNEY, for Keystone Express System and Pacific Freight Lines, Protestants.

H. J. BISCHOFF and H. P. MERRY by H. J. Bischoff for Southern California Freight Lines and Southern California Freight Forwarders, Protestants.

H. J. BISCHOFF, for California Motor Express, Ltd., Protestant.

BERNARD C. BRENNAN, for Freightways, Inc., Interested Party.

R. T. CHRISTMAS, for Crown City - Los Angeles Express, Protestant.

ROBERT V. HARDIE, for Western Truck Lines, Ltd., Protestant.

JAMES J. BROZ and WALLACE K. DOWNEY by Wallace K. Downey, for Valley Express Company, Protestant.

D. G. SHEARER, for Council of Trucking Associations, Interested Party.

JACKSON W. KENDALL and C. P. VON HERZEN, for Lyon Van Lines, Inc., Bekins Van Lines, Inc., Nickell Transfer Company, and Round Table of the California Storage Association, Interested Parties.

RILEY, Commissioner:

O P I N I O N

This is an amended application by Pacific Motor Truck-
ing Company for authority to establish a twice-daily ⁽¹⁾ highway
common carrier service between Los Angeles, on the one hand, and
Burbank, Glendale, and Alhambra, on the other hand, auxiliary to,
supplemental of, or in substitution for the rail service of
Southern Pacific Company and Pacific Electric Railway Company
between said points and including the performance of a service
as an underlying carrier for any express corporation, as defined
in Section 2(k) of the Public Utilities Act, authorized to serve
between the termini above described.

Applicant further agreed that any authority herein-
under obtained should provide that no service would be rendered
to or from nor should traffic be interchanged at any point not

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- (1) Two round trips daily are proposed between Los Angeles, Glendale, and Burbank. One trip will leave Los Angeles at 6:15 A.M. and arrive at Glendale at 6:55 A.M. and at Burbank at 7:30 A.M. A second schedule will leave Los Angeles at 11:30 A.M., arrive at Glendale at 12:10 P.M. and Burbank at 12:45 P.M. From Burbank and Glendale to Los Angeles, one schedule will leave Burbank at 1:00 P.M., Glendale at 1:10 P.M. and arrive at Los Angeles at 1:30 P.M. A second schedule will leave Burbank at 4:15 P.M., Glendale at 4:40 P.M., arriving in Los Angeles at 5:15 P.M.

Between Los Angeles and Alhambra there is proposed a schedule leaving Los Angeles at 6:15 A.M., arriving at Alhambra at 6:55 A.M. A second schedule will leave Los Angeles at 11:30 A.M. and arrive at Alhambra at 12:10 P.M. Returning, a schedule will leave Alhambra at 12:30 P.M. arriving at Los Angeles at 1:10 P.M. with a second schedule leaving Alhambra at 4:30 P.M. arriving at Los Angeles at 5:10 P.M.

a station on the rail lines of the Southern Pacific Company or Pacific Electric Railway Company if such point was not located within the pickup and delivery limits as now established in P.F.T.B. Tariff 255-A, C.R.C. 30 of Agent Haynes or as the same might be changed from time to time.

First filed in 1937, the original application in this matter was duly heard and submitted in 1938. Subsequently, in January of 1940, submission was set aside and oral argument thereon held before the Commission en banc, resulting in an order, dated October 8, 1940, reopening the matter for further hearing. Such further hearing was duly had in Los Angeles on November 6 and December 5, 1940, where testimony was received, exhibits filed, and the parties were afforded an opportunity to file concurrent briefs on or before December 20, 1940. Thereafter, the matter was resubmitted, and it is now ready for decision.

The granting of this application was protested by Keystone Express System, Pacific Freight Lines, Southern California Freight Lines, Southern California Freight Forwarders, California Motor Express, Ltd., Crown City-Los Angeles Express, Western Truck Lines, Ltd., and Valley Express Company. Interested parties appearing included the Council of Trucking Associations, Lyon Van Lines, Inc., Nickell Transfer Company, Bekins Van Lines, Inc., and the Round Table of the California Storage Association.

The basic purpose of the service here proposed is to provide a truck service co-ordinated with rail operation, thus

(2) The proposed schedules are designed to provide proper coordination with arriving and departing main line trains at Los Angeles to and from San Francisco Bay Area, San Joaquin Valley points, Sacramento and the East, via Ogden and from Yuma and the East. Imperial Valley arrivals and departures are also included.

providing transportation for property having a prior or subsequent rail movement and thereby expediting the movement of less-carload rail freight originating at points beyond Los Angeles, on the lines of Southern Pacific Company, and destined to Glendale, Burbank, and Alhambra. Conversely, the same expedition, subject to the same conditions, is to be applied to traffic originating at Glendale, Burbank, and Alhambra destined to points on the Southern Pacific system beyond Los Angeles. In addition, by the twice-daily service proposed, applicant expects to relieve certain congested conditions now existing in its Los Angeles freight sheds particularly in the evening.

Superimposed upon this basic proposal of Pacific Motor Trucking Company, is a further proposal that it be authorized to perform a service between the termini herein referred to which is purely local in nature and scope and for which said applicant desires to and will, if so authorized, file in its own name a tariff establishing rates for the movement of traffic between Los Angeles, on the one hand, and Burbank, Glendale, and Alhambra, on the other hand, as points of origin and destination, ignoring thereby the prerequisite of prior or subsequent rail haul referred to heretofore.

Therefore, the application as finally presented in its amended form seeks authority to perform two distinct types of service:

1. A highway common carrier service auxiliary to and dependent upon rail movements and service;
2. An unlimited local highway common carrier service between the termini herein named.

This being the case, the disposition of this matter will be divided into the two parts as above designated and separately

discussed in the order previously described.

Rail and Truck Co-ordination

At the present time, the traffic other than local traffic herein involved is being transported either by local rail freight, Pacific Electric box motor, or by truck under contract with Keystone Express System⁽³⁾ or Pacific Freight Lines⁽⁴⁾, as it is now known, while the strictly local traffic has been moved by rail.

Testimony of public witnesses and others supports applicant's allegations that the present method of operation has proven uneconomical, slow, and subject to various disadvantages accruing under the existing contractual arrangements with Pacific Freight Lines. These disadvantages have, in the main, developed particularly from disputed financial arrangements, inability of the carriers involved to properly and fully co-ordinate rail and truck schedules, the competitive nature of Southern Pacific Company and protestants' services on long haul traffic, and certain other disputes relating generally to routine matters of delays in shipments, billing, claims, and sundry other difficulties developing from diverse management. This testimony, furthermore, indicated a desire for and a satisfaction with the twice-daily schedule proposed by applicant with its resultant speeding up of shipments to and from points on the Southern Pacific Company's lines.

(3) Pacific Freight Lines now owns and controls the Keystone Express System. Hereinafter this combined property will be referred to as Pacific Freight Lines.

(4) One round trip daily, leaving Los Angeles in the early forenoon and returning in the late afternoon at approximately 6:15 A.M. and 4:00 P.M., respectively.

The establishment by Pacific Motor Trucking Company, a wholly owned subsidiary of Southern Pacific Company, of the service here proposed is represented to eliminate the difficulties heretofore experienced in the handling of the less-carload freight other than that moving locally between the termini herein described. It is contended that public benefit will flow from a faster, smoother, and definitely improved co-ordinated service by rail and truck whereby some twenty-four hours of time in transit will be saved. It is also anticipated that certain operating economies will result from the establishment of this service proposed. (5)

In behalf of protestants, the record shows that Pacific Freight Lines renders a twice-daily service between Los Angeles, Glendale, Burbank, and Alhambra, of which one service each way is available to rail traffic under contract. Southern California Freight Lines also operates daily between Los Angeles, Glendale, and Burbank, while Western Truck Lines, Ltd. operates between Los Angeles and Glendale. Pacific Freight Lines and Southern California Freight Lines both offered to enter into joint rates and co-ordinate schedules with the Southern Pacific Company. Pacific Freight Lines further defended its present affiliations and arrangements with Southern Pacific Company and reiterated its willingness to provide any necessary equipment or schedules which might be required to satisfactorily perform the service

(5) Exhibit No. 9 - Cost of Pacific Freight Lines service to Southern Pacific Company for one round trip contracted for March, 1936, \$1.01 per ton and October, 1937, \$1.38 per ton.

Exhibit No. 12 - Estimated cost for two trips by Pacific Motor Trucking Company as proposed is \$1.28 per ton.

proposed to be established by Pacific Motor Trucking Company.

Pacific Freight Lines and Southern California Freight Lines specifically agreed to delegate to this Commission the matter of determining an equitable allocation of the transportation revenue involved in any joint rate proposal made and to be bound by the conclusions.

Southern Pacific Company, as well as Pacific Electric Railway Company, now render and for years past have rendered less-carload freight service to the points under discussion by means of rails. Subsequently, this rail service proved itself financially and economically burdensome as well as unsatisfactory as a transportation medium for said less-carload freight. The rails then endeavored to fulfill their transportation obligations and improve their service by entering into contractual relationships with existing truck carriers between Los Angeles and the three points here involved, whereby less-carload freight destined to or originating at these three points would be transported, in part, by truck and thus obtain the additional flexibility and expedition demanded by the present-day shipper. This has proven unsatisfactory primarily because the divided authority necessarily present has had a tendency to delay shipments. Also, protestant carriers are directly competitive over a substantial portion of the rail line movement involved. As a result, the rails contend they have suffered in comparison through failure to successfully develop a service comparable to that capable of being rendered by the truck operators. For example, Southern Pacific Company inaugurated an overnight merchandise service between San Francisco and Los Angeles, designed to save some twenty-four hours time in transit to outlying receivers of

freight in the various communities surrounding Los Angeles, among other points. The time saving element and purpose of this service to the points involved herein has been nullified to a considerable extent by the fact that the currently used contracting carriers' schedules do not co-ordinate with the rail schedules. This lack of co-ordination of schedules has resulted in a twenty-four hour delay at Los Angeles because the one round trip per day operated by the Pacific Freight Lines for the transportation of rail traffic leaves Los Angeles before the arrival of the overnight merchandise train from San Francisco. This contracting carrier is either unable or is unwilling by reason of previous local or originating commitments, to change or augment its service. In any event, satisfactory schedule adjustments have not materialized. Also, adequate rail service to the communities named has proven ineffectual and costly to maintain.

Additionally, the record shows the Southern Pacific Company has had to contend with the matter of renewals of contracts with the Pacific Freight Lines which are contingent upon acceptance of terms which the railroad alleges are in excess of the prior costs and also in excess of the cost, on a ton mile basis, of performing double this service by the subsidiary applicant.

With respect to the joint rate arrangements referred to heretofore, the record indicates that the same conflicting features of independent management and competitive conditions will tend to defeat attempts along these lines as a basis for establishing a satisfactory maximum of service at a minimum of cost and friction.

A further study of the record, in connection with protestants' position herein as to shipments originating at or destined to points beyond Los Angeles particularly, leads to a conclusion that an ancillary or auxiliary rather than an additional service is being proposed, chiefly because of the fact that the Southern Pacific Company, or its subsidiaries, is now, has been for years past, and will continue to render all-rail service to the communities named in the application of Pacific Motor Trucking Company. The instant proposal will serve to supplement and expedite existing rail operations only.

Protestant carriers, therefore, will share in the traffic as above proposed to be transported by applicant only to the extent that they can, by superior service and additional effort, divert from Southern Pacific Company the traffic now carried by that company. No new competitive features will exist that do not now face the protestants. In so far as the tonnage here under discussion is concerned, they do not carry any freight other than the local tonnage of which they now have the bulk, save through arrangement with Southern Pacific Company or allied interests. Protestants have testified that through their own and connecting facilities, they can render direct overnight service from the Bay Region and San Joaquin Valley points to the Los Angeles territory involved, and therefore, are already established in a position to meet any competition which may conceivably result from the granting of the ancillary authority herein sought.

Local Truck Service

With respect to the local highway common carrier service proposed, the record in this proceeding will not justify a finding in toto that public convenience and necessity require or

will support the establishment and operation of an additional highway common carrier as sought by applicant in requesting authority to engage in the transportation of property having both point of origin or destination at the termini named herein.

This is apparent from the fact that no definite complaint has been made on this record with respect to the local service now being rendered by the various carriers and particularly by Pacific Freight Lines in the territory Los Angeles, Burbank, Glendale, and Alhambra and whereas it was admitted that the local rail freight service of Southern Pacific and Pacific Electric is inadequate and irregular. This is clearly disclosed by Exhibits Nos. 17 and 19 in this proceeding introduced by applicant and Pacific Freight Lines, respectively, and covering comparable periods of time during 1940.

Taking first Exhibit No. 17, we find that for a one-month period Southern Pacific Company handled a total of 457½ tons of less-carload freight to or from Glendale, Burbank, and Alhambra. Of this total, 54½ per cent was handled to and from points outside of California; 26½ per cent was handled to and from San Francisco or points north thereof, and the remainder was handled to and from points south of San Luis Obispo and Fresno. Only 5 per cent, or about 23 tons, was handled to or from Los Angeles. This amounts to less than one ton per day of local traffic handled between the points involved. In comparison, Exhibit No. 19, for a comparable period, shows that more than 900 tons of freight, without regard to origin or destination, were handled by Pacific Freight Lines between the same points which, when broken down, reveals that some 619 tons, or more than 68½ per cent of the total traffic, were local in character. This, when compared with the 23 tons credited to Southern

Pacific or Pacific Electric, shows that the volume of local business handled by Pacific Freight Lines exceeds over 26 times the volume of similar traffic enjoyed by Southern Pacific Company. Incidentally, this tonnage and percentage comparison varies from that originally revealed by Exhibit No. 10 introduced in an earlier hearing in this matter and covering a comparable period of time in 1937, which reflected a 16 per cent volume of tonnage as locally handled by Southern Pacific Company.

From these figures it is evident that existing local truck services have prevailed and are adequate as indicated by the preponderance of local tonnage (approximately 70 per cent) now carried by Pacific Freight Lines. The statement of applicant that local rail freight service has proved inadequate is substantiated. Based upon the downward trend of local rail traffic as heretofore indicated, the future will, in all probability, show a further trend toward the use of trucks for this local movement and unless relieved, as herein sought, the rails will share less and less in this tonnage which, based upon available comparative figures, they have practically relinquished now.

Summary

For the most part, the primary or rail-truck co-ordination proposal of applicant in this proceeding contains all of the essentials of and is similar to the type of operation set forth and authorized by the Commission in Decision No. 33431, dated August 24, 1940, on Applications Nos. 21351 and 21360. This operation involved transportation of property in and about the Ontario and San Bernardino area. This decision authorized Pacific Motor Trucking Company to establish and operate a highway

common carrier service between these points and adjacent territory pursuant to certain conditions and restrictions.

It appears that little would be gained by a repetitious discussion of the record in this proceeding covered by and in conformity with the earlier findings of the Commission as above referred to. Therefore, in so far as the proposal of applicant herein under discussion relates to and seeks authority for the establishment of an automotive service auxiliary to or supplemental of rail service, the instant application will be granted.

Based upon this record, however, public convenience and necessity for an additional and substitutional local truck service between the termini herein involved does not appear to justify the granting of the request of Pacific Motor Trucking Company for authority to establish such an enlarged service.

However, consideration must be given to certain other phases dealing with the matter of local transportation before a final disposition thereof may be made. Southern Pacific Company and Pacific Electric Railway Company as well, have, for many years, served this territory locally and have continued to transport a certain, though gradually reduced, percentage of this local traffic. Furthermore, a portion of the shipping public has indicated a desire, by their continued patronage, to utilize the rail carriers for personal as well as other reasons. Among these may be cited their use of system as well as local rail facilities, elimination of multiple billing or handling of freight, simplification of claim adjustments, and other advantages generally present when shippers are enabled to transact business with one operator or operating system. Furthermore, the difficulties arising from the inability of the rails and the protesting

carriers herein to mutually agree upon either a division of rates, establishment of joint rates, or adjustments of schedules, plus the further fact that the present operating arrangement between Pacific Freight Lines and Southern Pacific Company is unsatisfactory, if not unlawful, has resulted in a basic operation unsatisfactory in turn to both carriers and patrons. In addition, the fact that at the present time, according to the record, 5 per cent of the total rail movement involved is local in character, hardly warrants consideration as to its effect upon protestants, provided the rails are not permitted to invade the protestants' field. Furthermore, Southern Pacific Company has in effect tariffs showing rates for the transportation of this particular local tonnage and, by reason of such holding out, will render an unattractive and expensive service by rail, unless granted relief as herein proposed in order to satisfy the evidenced desire of a portion of the shipping public to patronize the railroad for which they have expressed preference. The establishment of a local service by Pacific Motor Trucking Company, provided it is limited in scope and made comparable to the operation of the existing rail schedule now in effect, would be in the public interest in that it would preserve, improve and assist an existing and necessary carrier service without resulting in the creation of a new and unwarranted carrier in the field, with its destructive consequences in a territory already amply served.

Based upon this premise, therefore, an equitable solution of this local transportation problem would be obtained

(6) Estimated cost in excess of \$30,000 per year for switch engine operation required to effect comparable service to that proposed.

through permitting Pacific Motor Trucking Company to establish and operate one round trip daily between Los Angeles, on the one hand, and Alhambra, Burbank, and Glendale, on the other hand, whereon there could be transported such local traffic as may be available, utilizing for this purpose a morning schedule for outbound traffic and an afternoon schedule for inbound traffic. This would (1) eliminate the grounds for dissatisfaction with local rail service now apparent, (2) dispense with the question of unlawful operation, and (3) definitely limit the incursion of Pacific Motor Trucking Company into the local field as closely as possible to that now enjoyed by the rails and no more.

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.

I recommend the following form of order.

O R D E R

Public hearing having been had in the above-entitled proceeding, evidence having been received, the matter having been duly submitted, the Commission being fully advised in the premises, and it being found as a fact that public convenience and necessity so require;

IT IS ORDERED that a certificate be and it hereby is granted to Pacific Motor Trucking Company for the establishment and operation of an automotive service as a highway common carrier, as that term is defined in section 2-3/4 of the Public Utilities Act, between Los Angeles, on the one hand, and Glendale, Burbank, and Alhambra on the other hand, subject to the following restrictions:

- A. The service to be performed by applicant shall be limited to that which is auxiliary to, or supplemental of the rail service of the Southern Pacific Company and Pacific Electric Railway Company, or either of them.
- B. Applicant shall not render service to or from, nor interchange traffic at, any point not a station on the rail lines of the Southern Pacific Company or Pacific Electric Railway Company.
- C. Applicant shall be limited to the transportation of shipments which it receives from or delivers to the Southern Pacific Company and Pacific Electric Railway Company, or either of them, and to shipments which it transports for express corporations. All of said shipments shall receive, in addition to the movement by applicant, a prior or a subsequent movement by rail, except that traffic originating at Los Angeles destined to either Alhambra, Burbank, or Glendale, or vice versa, shall be transported only to Alhambra, Burbank, or Glendale on applicant's first morning schedule and transported from Alhambra, Burbank or Glendale to Los Angeles only on applicant's first afternoon schedule.
- D. 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 and Pacific Electric Railway Company, respectively, currently on file with this Commission and in effect.

IT IS FURTHER ORDERED that, in the operation of said highway common carrier service pursuant to the foregoing certificate, Pacific Motor Trucking Company shall comply with and observe the following service regulations:

1. 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.
2. Subject to the authority of this Commission to change or modify such at any time by further order, Pacific Motor Trucking Company shall conduct said highway common carrier operations over and along existing highway routes between termini.
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 and the Pacific Electric Railway Company, respectively, 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 FURTHER ORDERED that in all other respects,
Application No. 21083 be and the same hereby is denied.

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 Com-
mission of the State of California.

Dated at San Francisco, California, this 3rd day
of June, 1941.

Ray & Key
Justice J. Brewer
Francis D. Havens
Richard H. H. H.
COMMISSIONERS