

ORIGINAL

Decision No. 34617

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of RALPH SPEER)
for a certificate of public convenience and)
necessity to operate automotive truck service)
as a common carrier of property between Sacra-) Supplemental
mento, Lincoln, and Chico, on one hand, and) Application
Bella Vista, Ingot, Round Mountain, Montgomery) No. 22897
Creek, Burney, Fall River Mills, McArthur,)
Nubieber, Bieber, Adin, Canby, Alturas, Davis)
Creek, Willow Ranch, and the California-Oregon)
State Line at Pine Creek, California.)

In the Matter of the Application of OREGON-NEVADA-)
CALIFORNIA FAST FREIGHT, INC., a corporation, (1))
for a certificate of public convenience and nec-)
essity to operate motor vehicles for the transpor-)
tation of property between Redding, California) Application
and the California-Oregon State Line and all) No. 23594
intermediate points, via U. S. Highways 299 and)
395; (2) for merger and consolidation of said)
certificate when granted with all of the cer-)
tificates of applicant.)

In the Matter of the Application of THOMAS B.)
RILEY for a certificate of public convenience)
and necessity to operate motor vehicles for the)
transportation of property between Pittville and) Application
Adin, California, and intermediate points, via) No. 23728
U. S. Highway 299 and to consolidate said certif-)
icate with the existing operative rights between)
Redding and Pittville, California.)

HARRY A. ENCELL, for Applicant in Supplemental
Application No. 22897 and as Protestant
in Applications Nos. 23594 and 23728.

EDWARD M. BEROL, for Applicant in Applications
Nos. 23594 and 23728 and as Protestant in
Supplemental Application No. 22897.

E. L. VAN DELLEN JR. for Southern Pacific Company
and Pacific Motor Trucking Company, Pro-
testants in Supplemental Application No.
22897 and Application No. 23594.

HARRY SEE, for Brotherhood of Railroad Trainmen,
Brotherhood of Locomotive Engineers and
Order of Railroad Telegraphers.

W. G. STONE, for Sacramento Chamber of Commerce.

BY THE COMMISSION:

O P I N I O N

By Supplemental Application No. 22897 Ralph Speer, an individual, seeks a modification of Decision No. 33414, dated August 13, 1940, by eliminating therefrom a prohibition to serve Canby and Nubieber in connection with his existing highway common carrier services as therein authorized. ⁽¹⁾

By Application No. 23594, as amended, Oregon-Nevada-California Fast Freight, Inc., a corporation, seeks authority to establish and operate a highway common carrier service between Redding and the California-Oregon State Line, via Alturas, serving intermediate points, as an extension and enlargement of its existing rights and consolidated therewith.

By Application No. 23728 Oregon-Nevada-California Fast Freight, Inc. ⁽²⁾ seeks authority to establish and operate a highway common carrier service between Pittville and Adin, as an extension and enlargement of its existing right between Redding and Pittville and intermediate points and consolidated therewith.

(1) Granted a certificate of public convenience and necessity between:

"Sacramento and Chico, on the one hand, and Redding and Alturas and intermediate points, on the other hand, and between points intermediate between Bella Vista and Adin, both points inclusive, via Highway U. S. 99E between Sacramento and Redding and Highway U. S. 299 between Redding and Alturas, subject to the following restriction:

"No shipments may be transported between Sacramento and Chico, on the one hand, and Redding, Nubieber, Canby and Alturas, on the other hand."

(2) Originally filed in the name of Thomas B. Riley. Order substituting parties issued February 18, 1941.

Public hearings in these respective applications were had before Examiner Hunter in Alturas, Redding and Sacramento, where testimony was taken, exhibits filed, the matters submitted on briefs duly filed with the Commission, and they are now ready for decision.

While the three applications were called for hearing at the same time and places, the following procedure was observed: two independent records were developed--one dealing with the supplement in Application No. 22897, and the other, a consolidated record on Applications Nos. 23594 and 23728. In view of the fact these applications involve matters which are common to each, in that they respectively seek authority to establish a highway common carrier service in whole or in part to the district tributary to U. S. Highway No. 299 between Redding and Alturas and U. S. Highway No. 395 between Alturas and the California-Oregon State Line at Pine Creek, they will be disposed of in a single decision.

GENERAL DESCRIPTION OF TERRITORY AND TRANSPORTATION INVOLVED

At the outset, it appears desirable to set forth a general description of the transportation problem involved. For convenience hereinafter the area tributary to U. S. Highways Nos. 299 and 395 between Redding and the California-Oregon State Line will sometimes be referred to as the Alturas Area and the highways as the Alturas Lateral. The Alturas Lateral extends in a northeasterly direction from Redding, on the south, to Pine Creek, on the north, which is near the northeast corner of the State of

(3) California. This district is sparsely settled and given largely to stock and poultry raising and the lumber business. Alturas, with its population of approximately 2,500, is the largest community in the district.

Shipments are moved to and from the Alturas Area by means of rail, truck and auto stage. The rail carriers are Southern Pacific Company, Western Pacific Railroad Company and Great Northern Railway Company. The latter two carriers connect at Nubieber where their lines intersect U. S. Highway No. 299. The line of the Western Pacific extends in a southerly direction from Nubieber while that of the Great Northern extends northerly from that point. Nubieber is the only community in the Alturas Area served by both the Western Pacific and Great Northern. Southern Pacific operates a rail line between Klamath Falls,

(3) Distances in road miles between points intermediate to Redding and the California-Oregon State Line:

<u>Points</u>	<u>Distance Between Points</u>	<u>Accumulative Distance From Redding</u>
Redding- - - - -		
	37	
Montgomery Creek - - - - -	19	37
Burney - - - - -	16	56
Fall River Mills - - - - -	4	72
McArthur - - - - -	14	76
Bieber - - - - -	13	90
Adin - - - - -	22	103
Canby- - - - -	19	125
Alturas- - - - -	46	144
Pine Creek - - - - -		190

Oregon and Reno, Nevada, via Canby and Alturas. This rail line intersects U. S. Highway No. 299 at Canby and Alturas. The points served by Southern Pacific in the Alturas Area consist of Canby, Alturas and the small communities between Alturas and the California-Oregon line along its Lakeview branch.

The truck operations are conducted by certificated, permitted and proprietary operators. There are two highway common carrier services operating in the Alturas Area pursuant to certificates issued by this Commission. One is conducted by Ralph Speer, with an operation between Sacramento and Adin with certain restrictions (Decision No. 33414, in Application No. 22897), and the other by Thomas Riley (Oregon-Nevada-California Fast Freight, Inc., successor), with an operation between Redding and Pittville (Decision No. 33920, in Application No. 23728). Truck transportation by the permitted and the proprietary carriers is conducted by many operators. While the amount of this operation varies somewhat with the season of the year, the permitted and proprietary operators transport the majority of the shipments by truck to and from the Alturas Area.

The Alturas Area is also served, in whole or part, by two passenger stage corporations, one operating between Redding and the Oregon-California State Line over U. S. Highways Nos. 299 and 395, and the other between Reno and Klamath Falls via Alturas. Both of these operations provide an express service for shipments up to one hundred pounds.

SUPPLEMENTAL APPLICATION NO. 22897 (RALPH SPEER)

Application No. 22897 was originally filed August 1, 1939 seeking a certificate to operate an automotive truck service between Sacramento, Lincoln and Chico, on the one hand, and points

between Bella Vista and the California-Oregon State Line via the Alturas Lateral, on the other hand. The Commission, by its order in Decision No. 33414, dated August 13, 1940, granted this application in part, i.e. a certificate to operate between Sacramento and Chico, on the one hand, and between Bella Vista and Adin, both points inclusive, on the other hand, as well as to provide a local service to points intermediate to Bella Vista and Adin with the restriction that "no shipments may be transported between Sacramento and Chico, on the one hand, and Nubieber, on the other hand." In the supplemental application now under consideration, filed December 16, 1940, applicant seeks authority to extend its operations to include Nubieber and Canby.

This applicant is now conducting an operation under its certificate on a tri-weekly basis during the summer season and bi-weekly during the remainder of the year.

It is contended by applicant that the proposed enlargement of existing service is justified and necessary primarily because there is no local public drayage service at either Canby or Nubieber, which has militated against prompt delivery of rail traffic to shippers and receivers located at these points. Applicant proposes to eliminate this delay by inaugurating direct service by truck between these points and Sacramento and Chico as a part of his existing service. Furthermore, counsel for applicant stated that since the inception of this certificated service and the consequent cessation of the contract operations, Speer has received many requests from former patrons at these points for service. Two public witnesses appeared at the rehearing

(4)
in support of the Speer application, and the Sacramento Chamber of Commerce likewise indicated approval of the proposal.

Southern Pacific Company originally opposed the granting of this supplemental application with respect to extending the operation to Canby but, subsequently, however, it withdrew this protest. With respect to applicant's proposal to extend its service to Nubieber, neither the Western Pacific nor the Great Northern signified any opposition to the granting of this portion of the supplemental application.

All the opposition appearing in the record upon which the original order was issued (Decision No. 33414) has been withdrawn. The Oregon-Nevada-California Fast Freight, Inc. takes the position it is not opposed to the granting of the Supplemental Application No. 22897 provided its application is granted to serve the same points; otherwise, it is opposed to such affirmative action.

APPLICATIONS NOS. 23594 and 23728 (OREGON-NEVADA-CALIFORNIA FAST FREIGHT, INC.)

In Application No. 23594, as amended, authority is sought to establish and operate a highway common carrier service between Redding and the California-Oregon State Line and intermediate points via Pittville, Adin and Alturas, as an extension and enlargement of applicant's existing rights and consolidated

(4) Attached to the original application were letters from National Biscuit Company, Sacramento, Glaser Bros., Sacramento, Archie Cain and M. C. Scranton of Nubieber, advocating the granting of this application.

(5)
therewith, and including the right to serve laterally two miles on either side of the highways traversed.

Application No. 23728 was originally filed by T. B. Riley seeking authority to extend and enlarge an existing highway common carrier right between Redding and Pittville and intermediate points to Adin. The Redding-Pittville certificate was acquired by Riley from one Roy Mark. Subsequently, Oregon-Nevada-California Fast Freight, Inc. leased this operative right between Redding and Pittville from Riley and, with an option to buy subsequently exercised, later became the successor in interest to Riley and, therefore, applicant of record as to the extended

(5) The certificated rights of the Oregon-Nevada-California Fast Freight, Inc. in California, or its predecessor, J. A. Gritsch, may be briefly summarized as follows: This carrier was originally authorized in 1934 to serve as a highway common carrier between the San Francisco Bay Area, on the one hand, and Red Bluff and Dunsmuir, including Red Bluff but excluding Dunsmuir and all intermediate points, on the other hand. Subsequently, it acquired, in 1939, a right for the transportation of live and dressed poultry only from Corning, Orland, Willows, Maxwell and Williams, on the one hand, to Oakland and San Francisco, on the other hand, and a highway common carrier operative right between Chico and Red Bluff and certain intermediate points, neither of which were consolidated with the 1934 certificate. In 1940, it was granted a certificate between Redding and Kennett and intermediate points via Shasta Dam, as an extension and enlargement of and consolidated with its original 1934 operative right and, in the same year, was granted a similar certificate also as an extension and enlargement of its existing operations between Dunsmuir and the California-Oregon State Line and intermediate points and between Sacramento and Redding, on the one hand, and points intermediate between Redding and the California-Oregon State Line, on the other hand, subject to the restriction that no shipments be transported to or from Dunsmuir, Weed, Montague and Yreka, provided, however, that this restriction would not apply to shipments having point of origin or destination at either Sacramento or Redding. Within the past year it has acquired the highway common carrier operative right of T. B. Riley between Redding and Pittville and intermediate points.

operative right sought to be established to the point Adin. Therefore, as to the territory Redding to Adin, Applications Nos. 23594 and 23728 are co-extensive.

Under applicant's proposal a daily except Sunday and holiday service will be maintained between Redding and the points herein sought to be served connecting with applicant's existing services at Redding, thereby affording direct overnight service between extreme termini served or proposed to be served.

According to applicant's time schedule (amended Exhibit "B") equipment will leave Redding daily at 6:00 A.M., arriving at Alturas at 1:00 P.M. and at Pine Creek (Oregon State Line) at 2:30 P.M. on which it is proposed to transport freight originating in San Francisco or Sacramento the evening before and destined to points beyond Redding herein proposed to be served. Upon arrival at Redding in the early morning hours freight, except truck loads which will be given through handling, will be transferred in ample time to depart on the schedule above noted. Thus, it is asserted by applicant, direct overnight service with first-morning delivery, depending upon location, will be afforded to the public interested in or desirous of using this proposed service. Store-door pickup and delivery service is proposed at all points, including territory located laterally in a zone two miles on either side of the highways traversed, and refrigerator equipment will be used in this proposed service.

By reason of the rather extensive intrastate operations presently conducted out of the San Francisco Bay and Sacramento Areas to various points in Northern California, including a service

(6) Schedules from San Francisco leave from approximately 4:00 to 7:00 P.M. A truck and trailer also operate from Sacramento to Redding.

(7) Applicant proposes no service between Sacramento and Redding.

between Redding and Pittville directly in the territory now under discussion, together with interstate operations between California, Oregon and Nevada points, this applicant anticipates that, aside from direct mileage cost, very little additional expense will be involved in establishing and maintaining this additional service. (8)

According to a traffic survey made by applicant, approximately 250 tons of freight per week, exclusive of rail shipments, are transported into this territory by truck from San Francisco, Sacramento and Redding, the bulk of which is carried by contract and proprietary trucks, with applicant Speer transporting approximately 20 tons inbound. This traffic is allegedly on the increase due to better conditions in the lumbering and cattle industries. It is this tonnage that applicant figures to obtain to the extent of some 20 tons per day, of which 15 tons would be inbound and 5 tons outbound.

RAILROADS' POSITION

The granting of Application No. 23594 was opposed by Southern Pacific Company, Pacific Motor Trucking Company and the Railway Express Agency, Incorporated.

Rail service (including Railway Express Agency), in conjunction with subsidiary or connecting truck or bus facilities, constitutes the principal public transportation available to this territory. Western Pacific Railroad Company offers all-rail service to the point of Nubieber but has no pickup and delivery facilities at that point. (9) Southern Pacific Company offers a daily

(8) Terminals are already established in San Francisco, Sacramento, and Redding. Sufficient equipment to handle the enlarged operation is now available at Redding.

(9) TYPICAL OPERATION OF TRAIN SERVICE IN ALTURAS AREA

WESTERN PACIFIC RAILROAD COMPANY

	Daily	Mon.	Tues.
Lv. San Francisco		7:30 P	
Lv. Sacramento			5:50 A
Lv. Keddie			1:00 P
Ar. Bieber			6:30 P

except Sunday service to Canby and points to the Oregon State Line via Alturas, with pickup and delivery service at the last-named point as well as at Redding. ⁽¹⁰⁾ This service, in so far as Sacramento and San Francisco Bay Area origin points are concerned, affords second-morning arrival in Canby, and late second-afternoon arrival at points between Alturas and the Oregon line over the Southern Pacific Lakeview branch via Klamath Falls, Oregon. From Redding an additional day is required for arrival of freight and, admittedly, this service leaves much to be desired from the standpoint of patrons desirous of expedition in the handling of their merchandise.

(10)

TYPICAL OPERATION OF TRAIN SERVICE (L.C.L.) IN ALTURAS AREA

SOUTHERN PACIFIC COMPANY

	Mon.	Tues.	Wed.
Lv. San Francisco-Oakland	9:10P		
Lv. Sacramento	10:15P		
Ar. Davis	10:35P		
Lv. Davis	11:10P		
Ar. Dunsmuir		5:15A	
Lv. Dunsmuir		7:00A	
Ar. Klamath Falls		10:45A	
Lv. Klamath Falls		4:30P	
Ar. Alturas		11:45P	
Lv. Alturas			3:00P
Ar. Willow Ranch			4:30P
Ar. Lakeview			5:00P

Railway Express Agency, Inc. offers daily overnight service to points from Canby to the Oregon line via Alturas, with pickup and delivery service at the latter point and store-door delivery on the main highway at Canby.

PUBLIC WITNESSES

Public witness testimony adduced was both varied and comprehensive, some fifty-two witnesses (11) being called by the parties from Nubieber, Canby, Sacramento, Alturas, Burney, Redding, Fall River Mills, Adin, Dan's Creek, Pine Creek and Willow Ranch.

Witnesses for applicant primarily expressed a desire, need for and interest in a direct overnight service providing store-door pickup and delivery for shipments from Redding, the San Francisco Bay Area and Sacramento, which are the principal points of origin for shipments into the Alturas Area. Daily service, while not always indicated as specifically required

(11) By Oregon-Nevada-California Fast Freight, Inc., 44 witnesses as follows: Alturas 13, Fall River Mills 1, Redding 11, Nubieber 1, Canby 3, Adin 1, Dan's Creek 1, Burney 1, Pine Creek 1, Sacramento 9, Willow Ranch 2.

By Southern Pacific Company, Alturas 6.

By Ralph Speer, Sacramento 1, Canby 1.

according to considerable testimony, was approved as desirable from the standpoint of convenience and economy to shippers. On the other hand, testimony was also received, both on direct and cross examination, indicating use of and satisfaction with common carrier rail and rail-truck services based upon described schedules, frequencies and delivery times. Complaint, with respect to the existing common carrier services, except Railway Express Agency Inc. which was fast enough but too expensive in the eyes of some witnesses, centered chiefly about the delays encountered in obtaining delivery of merchandise. Estimates of these delays ranged from three days to one week. Other complaints referred to difficulties encountered with respect to obtaining necessary refrigeration service, particularly upon less-than-carload shipments, and also to the lack of store-door delivery. Witnesses also testified as to their use of proprietary and contract trucks. As to the proprietary operations, it is apparent that certain difficulties are involved in the use of this mode of transportation by reason of economic and equipment limitations, either self-imposed by merchants using their own vehicles for transportation service or established by distributors operating their own fleets of equipment in serving their patrons. Contract operators, according to the record, proved unsatisfactory for a number of reasons, including undependable operation, delay in transit by reason of lack of cargo space, and a general indifference to the needs of less-than-carload shippers, as opposed to those offering truck-load lots.

In addition to this general line of testimony reflecting the over-all disadvantages and inconveniences allegedly attributed to the existing transportation organization, as well as that which evidenced satisfaction therewith, considerable testimony appears as to the commercial disadvantages imposed upon California shippers

in this territory in their attempts to develop a competitive parity with merchants in Oregon and Nevada. At the present time these out-of-state shippers are able to offer first day delivery from Klamath Falls and overnight delivery, including store-door service, from both Reno and Klamath Falls to most of the points here sought to be served. As a result of this situation, it is alleged that California commercial interests have lost considerable business to their Oregon and Nevada competitors. Sacramento Chamber of Commerce particularly, took the position that it was vitally necessary that California merchants, and those of the Sacramento area specifically, required and needed the advantage of a direct overnight service to the Alturas Area if any progress toward recovering this lost business is to be made. Witnesses concurred in this stand by stating that they would be induced to shift their buying centers from Reno and Klamath Falls to Sacramento and other California points if afforded a service comparable to that now available to them from these Nevada and Oregon points.

Originally, merchants in this territory were wont to carry rather large inventories and many of them maintained considerable storage area to accommodate such inventories. The element of time in transit at that time, therefore, was relatively unimportant as sufficient stocks were kept on hand to adequately serve the needs of patrons during the interims between arrivals of fresh supplies. Today, these merchants contend they are obliged, by economic conditions, to seek relief from the expense of maintaining large stocks of goods on hand.

The question of certificating a highway common carrier operation in the Alturas Area is one that has been before the

Commission a number of times in the past few years. Reference is made to Decision No. 32356, dated September 26, 1939, in Application No. 21804 et al, wherein the Commission concluded that:

"The records made in these proceedings are such as to leave but little doubt that the territory involved is now without adequate and dependable transportation service and that there is a public need for a regular scheduled and dependable highway common carrier service."

Specifically, upon this record, the Commission finds:

(1) That the Alturas Area as a whole is entitled to an improved public transportation service for certain types of shipments in the way of shorter time in transit, store-door pickup and delivery service and an operation that will provide refrigeration for perishable shipments.

(2) That the services proposed in Applications Nos. 22897 (supplemental) and 23594, respectively, have been shown to meet a public need for such operation and that applicants are ready, willing and able to provide such a service.

(3) That the operations proposed in Applications Nos. 22897 (supplemental) and 23594, respectively, should tend to stabilize transportation in the Alturas Area in that the shippers or receivers of freight could depend upon a motor vehicle operation under regulation.

(4) That, as a further step toward a rounded out, regulated public transportation service in the Alturas Area, applicants and the railroad involved should enter into a joint rate arrangement at the various connecting points.

(5) That if and when the Oregon-Nevada-California Fast Freight, Inc. establishes a highway common carrier service between Redding and the California-Oregon State Line via Alturas, this operation will duplicate the service it now provides between Redding and Pittville; therefore, to eliminate a duplication of certificates, coincident with the issuance of a certificate for the longer route, the certificate heretofore issued for the shorter route should be revoked.

Based upon such findings, Supplemental Application No. 22897 of Ralph Speer and Application No. 23594, as amended, of Oregon-Nevada-California Fast Freight, Inc. will be granted as prayed for. Favorable action by the Commission upon the application of Oregon-Nevada-California Fast Freight, Inc. eliminates the necessity of further consideration of Application No. 23728 of Thomas B. Riley, which will, therefore, be dismissed.

O R D E R

Public hearings having been had in the above-entitled proceedings, evidence having been received, the matters having been duly submitted and the Commission having found that public convenience and necessity so require:

IT IS ORDERED that the following restriction, appearing in Decision No. 33414, on Application No. 22897, i.e.

"No shipments may be transported between Sacramento and Chico, on the one hand, and Redding, Nubieber, Canby and Alturas, on the other hand"

be and it is hereby amended to read as follows:

"No shipments may be transported between Sacramento and Chico, on the one hand, and Redding and Alturas, on the other hand."

provided that applicant Speer shall, within sixty (60) days from the effective date of this order, file in triplicate and on at least ten (10) days' notice to the Commission and the public, a supplement to his tariff and a time schedule in conformity with the authority herein granted.

In all other respects Decision No. 33414, on Application No. 22897 shall remain unchanged and in full force and effect.

IT IS FURTHER ORDERED that a certificate of public convenience and necessity be and it is hereby granted to Oregon-Nevada-California Fast Freight, Inc. for the establishment and operation of a highway common carrier service, as such is defined in Section 2-3/4 of the Public Utilities Act, between Redding, Shasta County, and the California-Oregon State Line at New Pine Creek, Modoc County, and all intermediate points, via Alturas, as an extension and enlargement of its existing rights, consolidated therewith and including the right to serve laterally two (2) miles on either side of the highway traversed between termini (U. S. Highways Nos. 299 and 395).

IT IS FURTHER ORDERED that, in the operation of said highway common carrier service, Oregon-Nevada-California Fast Freight, Inc. shall comply with and observe the following service regulations:

1. File a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the date hereof.
2. Subject to the authority of this Commission to change or modify such at any time by further order, conduct said highway common carrier service over and along the following routes:

Via Highways U. S. Nos. 299 and 395.

3. Comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing tariffs and time schedules in conformity therewith, in triplicate, within sixty (60) days from the effective date hereof and on not less than ten (10) days' notice to the Commission and the public.

IT IS FURTHER ORDERED that Application No. 23728 be and it hereby is dismissed.

IT IS FURTHER ORDERED that, in the event Oregon-Nevada-California Fast Freight, Inc. elects to accept the certificate hereinabove granted to operate a highway common carrier service between Redding and the California-Oregon State Line at New Pine Creek and all intermediate points via Alturas, the certificate now held by this carrier to operate between Redding and Pittville and intermediate points, created by Decisions Nos. 13416 and 14113, dated April 15, 1924 and October 1, 1924, respectively, is, without further order from this Commission, revoked and of no further force and effect.

Ralph Speer and Oregon-Nevada-California Fast Freight, Inc., their successors or assigns, may never claim before this Commission, or any court or other public body, a value for the authority hereby granted in excess of the actual cost thereof.

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

Dated at San Francisco, California, this 23rd day of September, 1941.

[Signature]
[Signature]
Justice F. Graham
Francis L. Havenor
[Signature]
COMMISSIONERS