

ORIGINAL

Decision No. 36468

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of HOLMES)
EXPRESS, a corporation, to sell, and of)
PACIFIC MOTOR TRUCKING COMPANY, a corpor-) Application No. 25619
ation, to purchase, all operating rights)
and properties of Holmes Express.)

R. E. WEDEKIND and WILLIAM MEINHOLD, by
William Meinhold, for applicants.

JOE ROBERTSON, for Highway Transport, Inc.,
interested party.

BY THE COMMISSION:

INTERIM OPINION

Holmes Express, a corporation, one of the applicants herein, is now providing a highway common carrier service between San Francisco, San Jose, Robertsville, Los Gatos and Permanente and certain specifically named intermediate points, as more particularly set forth in the decisions creating the operative rights therefor. The right between San Francisco, San Jose, Robertsville and Los Gatos was created by Decision No. 17857, dated January 10, 1927, in Application No. 12354 (29 C.R.C. 224) which granted a certificate to Henry E. and Henry P. Holmes, partners and predecessors in interest of this applicant. The corporation was authorized to acquire this right under the authority of the Commission's Decision No. 24931, dated June 27, 1932. By Decision No. 35265, dated April 14, 1942, as ratified by Decision No. 36298, dated April 15, 1943, this right was extended from Sunnyvale to Permanente. In the application involved, the Commission is requested to authorize the transfer of these operative rights, twenty-five units of rolling equipment, office and terminal equipment, from Holmes Express to Pacific Motor
(1)
Trucking Company, a corporation. Pending determination of applicants' request for authority to transfer the operative rights and property involved, immediate authorization is sought for temporary lease of said rights and property.

(1) For brevity, the applicants Holmes Express and Pacific Motor Trucking Company will hereinafter be referred to as Holmes and Pacific Motor, respectively. Pacific Motor is a wholly owned subsidiary of Southern Pacific Company.

A public hearing was had on June 21, 1943, and the matter was taken under submission. No one opposed the application.

It was shown that the Interstate Commerce Commission has authorized applicant Pacific Motor to lease said properties and interstate rights for a period of 180 days, beginning June 9, 1943, and ending December 5, 1943.

It was shown that substantially all the outstanding capital stock of vendor is owned by P. W. Holmes and H. P. Holmes, brothers, who manage the company. The latter, since the death of the father, has been dominant in the management of the business. Because of ill health, H. P. Holmes has been unable to continue his activities and his duties have been delegated to P. W. Holmes, who, so it was stated, lacks sufficient experience properly to conduct the business. The vendor, because of a very rapid turnover in personnel, is having difficulty in maintaining a full staff of employees. Its financial condition and its difficulty in obtaining repair parts for and replacement of equipment have created a condition under which it appears probable that it will not be able much longer to continue its transportation business in a manner and extent properly to serve the public. It was shown that Holmes is hard pressed for funds to meet its current obligations. It suffered a net loss of \$1,063.91 from its operations during January and February of this year as contrasted with a net profit of \$4,791.88 and \$221.96 for the years of 1941 and 1942 respectively. There is no question as to the fitness and

(2) Pacific Motor, among its highway common carrier operations, is authorized to provide a service between San Jose and Oakland via Niles and Livermore, between Mayfield (now a part of Palo Alto) and Los Gatos via Los Altos, Cupertino and Saratoga, and between San Jose, Santa Clara, Campbell, Los Gatos and Santa Cruz.

ability of Pacific Motor to preserve this operation for the benefit of the public. Its equipment and financial resources and managerial ability are more than adequate to fully meet the public need in the territory involved.

The monthly rental under the terms of the proposed lease is \$300 and the lease provides that rental payments will apply to the purchase price of the property if the transfer is authorized and consummated. The lease is authorized herein to January 1, 1944, and it is apparent that the accumulated rental for this period will fall short of the value of the physical properties involved. We will authorize a temporary lease provided that the monthly payments are not considered as rentals or payments for this Commission's certificates or for any operative rights granted by this Commission.

After full consideration of the record in this proceeding we are of the opinion that applicants should be authorized temporarily to lease the operative rights and properties involved, pending a determination of the request for the transfer thereof, the lease arrangement not to extend beyond January 1, 1944. However, both applicants are placed upon notice that the authority herein-after granted shall not in any manner be construed as an indication of the future attitude of the Commission in making a determination of applicants' request for a transfer of the operative rights and properties involved nor in granting an extension of a lease thereof.

INTERIM ORDER

A public hearing having been had, the Commission being fully informed therein and it being hereby found that the public interest so requires,

IT IS ORDERED as follows:

(1) That Holmes Express, a corporation, may lease to Pacific Motor Trucking Company, a corporation, and the latter may hire from the former, the property described in Exhibit "B" attached to the application herein and the operative rights described in the foregoing opinion, and the latter may operate thereunder for a term expiring January 1, 1944, which said lease may be executed pursuant to and in accordance with the terms of a lease dated March 11, 1943, a copy of which is attached to the application herein and marked Exhibit "C".

(2) That applicants shall comply with the rules of the Commission's General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and the public.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 2nd day
of July, 1943.

Justus J. Quisenberry
Richard Kachko
Francis J. Barr
COMMISSIONERS