

Decision No. 36718

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 Station)
 and Owenyo, California.)

ORIGINAL

Application No. 25815

BY THE COMMISSION:

O P I N I O N

In this proceeding Pacific Motor Trucking Company, a corporation, and a wholly owned subsidiary of Southern Pacific Company, seeks a certificate of public convenience and necessity authorizing operation as a highway common carrier, as defined by Section 2-3/4, Public Utilities Act, between Lone Pine Station and Owenyo, as an extension of its Owens Valley operations conducted under certificates previously granted by the Commission. (1) At present, applicant alleges, Southern Pacific Company operates a broad gauge rail line in the Owens Valley south of Owenyo, a narrow gauge rail line north of that point, and a narrow gauge rail line extending from Owenyo

(1) By Decision No. 22183, rendered March 6, 1930, in Application No. 16323, Pacific Motor Trucking Company was authorized to acquire an operative right as a highway common carrier between Lone Pine Station, Lone Pine and Bishop and intermediate points; this decision was modified by Decision No. 23254, rendered January 7, 1931, in the same proceeding. By Decision No. 26863, rendered March 12, 1934, in Application No. 19340, this carrier was authorized to acquire an operative right between Bishop and Laws. By Decision No. 31997, rendered May 16, 1939, in Application No. 22358, a certificate was granted to Pacific Motor Trucking Company authorizing a highway common carrier service between Laws and Benton and intermediate points, which was consolidated with the operative right between Lone Pine and Laws.

to Keeler. Freight traffic moving to and from points served by applicant in the Owens Valley is now interchanged between it and Southern Pacific Company at Lone Pine Station, where the crane facility for loading and unloading freight, so applicant states, is small, in poor condition, and at times inadequate to handle the traffic. However, at Owenyo a larger crane, having a capacity of 40 tons, is maintained. By permitting this extension, applicant asserts, shippers would be afforded more adequate facilities for the transfer of heavy commodities between the rail cars of Southern Pacific Company and applicant's trucks.

To provide the service applicant would use motor truck equipment sufficient to accommodate the traffic. Rates would be published conforming to those prescribed in Case No. 4246. No common carrier, excepting Southern Pacific Company, now engages in the transportation of intrastate traffic between Lone Pine Station and Owenyo. Applicant proposes to operate over two routes, one of which is somewhat circuitous and is designated as an alternate route. Authority to use the latter is sought because the bridge across Owens River, at Lone Pine Station, on the more direct route, is of light construction and should it become necessary to operate heavy equipment between these points, the traffic can better be accommodated by a heavier bridge situated on the alternate route.

In our judgment a public need has been shown to exist for the establishment of the service, and, accordingly, the application will be granted. This is not a matter requiring a public hearing.

Pacific Motor Trucking Company is placed upon notice that "operative rights" as such do not constitute a class of property

which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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

Application having been made as above entitled; and the Commission now finding that public convenience and necessity so require,

IT IS ORDERED as follows:

(1) That a certificate of public convenience and necessity be and it hereby is granted to Pacific Motor Trucking Company, a corporation, authorizing the establishment and operation of a service as a highway common carrier, as defined by Section 2-3/4, Public Utilities Act, between Lone Pine Station and Owenyo.

Said certificate is granted subject to the following condition:

The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act and further to the condition that Pacific Motor Trucking Company, its successors or assigns, shall never claim before this Commission, or any court or other public body, a value for said operative right or claim as the cost thereof, an amount in excess of that paid to the State as the consideration for such right.

(2) That in the operation of said highway common carrier

service, applicant 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. Applicant shall comply with the provisions of 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.
3. Subject to the authority of this Commission to change or modify them at any time by further order, applicant shall conduct said highway common carrier operations over and along the following routes:

REGULAR ROUTE: From Lone Pine Station to Owenyo via unnumbered county highway.

ALTERNATE ROUTE: Via unnumbered county highway from its junction with the regular route above described just north of Mt. Whitney Station, thence in a southeasterly direction to its junction with State Highway 190 near the station of Alico, thence westerly via State Highway 190 to its junction with U. S. Highway 395, thence over U. S. Highway 395 to a point just north of Lone Pine, thence over an unnumbered county highway easterly to Lone Pine Station.

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

Dated at San Francisco, California, this 23^d day of November, 1943.

Francis A. Havenner
J. J. [unclear]
Justus J. [unclear]
[unclear]
[unclear]
 COMMISSIONERS