

Decision No. 36863

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 for )  
the transportation of express, mail, )  
baggage, and milk traffic by motor )  
truck between Yreka and Montague, on )  
the one hand, and the Oregon-California )  
State Line on the other hand, serving )  
intermediate points. )

ORIGINAL

Application No. 24899  
1st Supplemental

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

By its supplemental application Pacific Motor Trucking Company, a corporation, requests the Commission to modify its Decision No. 35377, rendered May 19, 1942, on the original application herein, so as to authorize applicant to transport general commodities between Yreka and Montague, on the one hand, and the Oregon-California State line, on the other hand, and all intermediate rail points on the line of Southern Pacific Company, such transportation to be limited to that which is supplemental of and auxiliary to rail service of Southern Pacific Company.

The Railroad Commission, by said Decision No. 35377, granted a certificate of public convenience and necessity to applicant herein authorizing it to establish and operate a highway common carrier service for the transportation of express, mail, baggage and milk traffic between the same points here involved. The supplemental application here considered would expand this certificate to include general commodities.

In support of the authority sought applicant alleges that

traffic destined to the rail stations between Yreka and Montague, on the one hand, and the Oregon-California State Line, on the other hand, originates mainly in the San Francisco area and Sacramento and is presently handled in through rail merchandise cars to Medford, Oregon, from which point it is returned to destinations in peddler cars. The proposed modification will eliminate the rail cross-haul resulting from this method of handling the traffic involved.

Applicant alleges that pickup and delivery, in this territory, for general commodities transported by Southern Pacific Company is not available because of a lack of local draymen. Under applicant's proposal it will be able to provide such service. It further states that the proposed additional service can be provided with equipment presently in operation thereby obviating any additional expenditures.

The only other highway common carrier operating between Montague and the California-Oregon State Line is Oregon-Nevada-California Fast Freight, Inc. which has informed the Commission in writing that it does not desire to oppose the application. This is not a matter in which a public hearing is required and the application will be granted.

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.

FIRST SUPPLEMENTAL ORDER

An application therefore having been filed, the Commission being fully informed and it being hereby found that public convenience and necessity so require,

IT IS ORDERED that a certificate of public convenience and necessity is hereby granted to Pacific Motor Trucking Company, a corporation, authorizing it to establish and operate service as a highway common carrier, as defined in Section 2-3/4, Public Utilities Act, for the transportation of property between Yreka and Montague, on the one hand, and the Oregon-California State line, on the other hand, and intermediate points, including the right to serve all intermediate points located on the rail line of Southern Pacific Company and all points within a radius of one mile of said rail points, in lieu of the certificate of public convenience and necessity heretofore granted by the Commission's Decision No. 35377, rendered in the original application herein on May 19, 1942, which operative right is hereby revoked and annulled. The authority herein granted is subject to the following conditions:

1. Operation hereunder is limited to that which is supplemental of and auxiliary to rail service of Southern Pacific Company.
2. The certificate granted hereby 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 rights or claim as the cost thereof, an amount in excess of that paid to the State as the consideration for such rights.

IT IS FURTHER ORDERED that in the operation of service pursuant to the certificate herein granted applicant shall comply with 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 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 the highway common carrier service herein authorized over and along the following routes:

Beginning at Yreka, thence via U. S. Highway No. 99 to its junction with unnumbered county highway near Hiltz, thence via unnumbered county highway to Oregon-California State Line.

Beginning at Montague, thence via unnumbered county highway to Ager, thence via unnumbered county highway to junction with U.S. Highway No. 99 near Hornbrook.

Any and all roads connecting the above designated routes with rail stations of Southern Pacific Company situated between Montague and the Oregon-California State Line.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of February, 1944.

Richard K. Lach

Justin F. Calmes  
Francis R. Havenner  
James W. Dean

COMMISSIONERS