

Decision No. 37487

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
PACIFIC MOTOR TRUCKING COMPANY for)
a certificate of public convenience)
and necessity for the transportation)
of property by motor truck for other)
common carriers between San Luis)
Obispo and Oceano and certain inter-)
mediate points.)

ORIGINAL

Application No. 21023

FRANK X. VIEIRA, for applicant and Southern Pacific Company, intervenor.

HUGH GORDON, for Valley and Coast Transit Company and Coast Line Express, protestants.

WALLACE K. DOWNEY, for Pacific Freight Lines, protestant.

JACKSON W. KENDALL, for Bekins Van Lines, Inc., Lyons Van Lines and W. L. Carpenter, doing business as Argonne Van and Storage Company, protestants.

BY THE COMMISSION:

OPINION ON REHEARING

Pursuant to an application therefor and following a public hearing thereon, the Commission issued a certificate of public convenience and necessity (Decision No. 32602) to Pacific Motor Trucking Company, applicant herein, authorizing the establishment and operation of a highway common carrier service for the transportation of shipments of property moving in the custody of Southern Pacific Company, Railway Express Agency, Incorporated, and any other carrier of the same class or classes, between the railroad stations of Southern Pacific Company located at San Luis Obispo, Pismo, Edna, Tiber, Grover and Oceano and other intermediate rail stations then existing or thereafter established. Thereafter petitions for a

rehearing by protestants and applicant were granted. The rehearing was held at San Luis Obispo at the conclusion of which the matter was resubmitted and is now ready for decision.

At the rehearing an amended application was filed in which the Commission is requested to issue a certificate to Pacific Motor Trucking Company authorizing it to establish and operate a highway common carrier service for the transportation of property between the railroad stations, named above, or any which may be hereafter established, including authority to perform store door pick-up and delivery service.

Applicant proposes to limit its service to the transportation of traffic having a prior or subsequent rail movement over the lines of Southern Pacific Company from and to the points involved under a joint rate arrangement with this company and by concurrence in its tariffs now on file with this Commission or as they may be changed from time to time. Applicant proposes to handle the traffic of the Railway Express Agency as an underlying carrier under contract. The proposed service is to be daily except Sundays and holidays.

The proposed routes of operation between San Luis Obispo and Oceano are (1) over an unnumbered highway between those points via Edna, Tiber, Pismo and Grover and (2) as an alternate route between San Luis Obispo and Oceano over U. S. Highway No. 101, via Pismo Beach to Arroyo Grande, thence to Oceano via an unnumbered highway. No authority is sought to serve Arroyo Grande.

From the evidence introduced by applicant, it appears that the rail traffic involved leaves San Francisco at 7:40 P.M. and Oakland at 7:45 P.M. and arrives in San Luis Obispo about 2:28 the

following morning. The rail traffic leaving Los Angeles at approximately 8:00 P.M. arrives at San Luis Obispo the following morning at about 1:20 o'clock. After the arrival of this traffic at San Luis Obispo, shipments destined to the points involved are unloaded from the transfer car and reloaded into a box car which moves from San Luis Obispo to Guadalupe over Southern Pacific and from there to points in Santa Maria Valley over the Santa Maria Valley Railroad. This merchandise is of such limited volume that it does not of itself justify the operation of a local freight train. Consequently, the car is handled in a regularly operated freight train, normally consisting of carload traffic, which leaves San Luis Obispo at approximately 6:00 P.M. and the less-than-carload traffic for Oceano and Pismo is unloaded during the night at Oceano. The train then proceeds to Guadalupe where the local way car is set out. This train is operated particularly to expedite the movement of vegetables from Santa Maria Valley points which it picks up in car lots at Guadalupe and makes direct connections at Los Angeles with the eastern vegetable blocks. Under this method less-than-carload shipments are not available for delivery at the local points, excepting San Luis Obispo, until the second morning after shipment. If the plan of operation proposed herein were established first morning delivery could be made and the vegetable train would not be required to stop at Oceano for the delivery of local less-than-carload traffic. By eliminating the local stop at Oceano, which is the only one regularly made by this train, the company could effect certain train operating economies.

As before stated, traffic for Pismo is delivered at Oceano at which station a local agency is maintained. Upon the arrival of that traffic, the consignee is notified by the Oceano agent. Pismo is a non-agency station located about three miles from Oceano. Edna

is also a non-agency station and the infrequent traffic destined there is now handled by the vegetable train and unloaded at Oceano with an occasional shipment unloaded at Edna at the owners' risk.

It was shown that by the establishment of the coordinated rail-truck service as proposed, Southern Pacific Company could effect rail operating economies in the amount of \$1,765 annually. The estimated out-of-pocket expense of the establishment of the truck service proposed by applicant would amount to \$1,306 annually, as follows: truck driver's wages, \$716, additional variable expenses to be incurred, \$590. At the previous hearing it was shown that the estimated annual cost of the truck service would have been \$1,724. The estimate of driver's wages has been reduced \$202 and the item of estimated variable expenses has been reduced \$216.

The testimony of five public witnesses was introduced by applicant at the rehearing. These witnesses stated that they received shipments on the following basis; two or three times a month, two witnesses; once a month, two witnesses; once a month except during busy season, one witness. One of them uses his own truck to pick up all of his shipments while the others either use their own trucks or employ a drayman. In substance, they all stated that it would be convenient to them to have their shipments delivered. Only one expressed a desire for delivery of his goods the next day after shipment. No public witness testified in support of the application at the original hearing.

It was shown by applicant that during a typical period of one month, thirty-five less-than-carload rail shipments were consigned to Oceano and ten to Pismo. Three such shipments were forwarded from Oceano during the same period. All of these incoming shipments were received at Oceano and the consignees were notified of

the arrival so that they could make arrangements for delivery. The weight of this traffic was not shown.

The establishment of the proposed truck operation was opposed at the original hearing by Pacific Freight Lines and Valley and Coast Transit as to the transportation of all classes of traffic, and by Bekins Van Lines, Inc., with respect to the transportation of used household goods and office fixtures and furniture. Lyons Van Lines and W. L. Carpenter, doing business as Argonne Van and Storage Company, also opposed the application. At the rehearing in this matter the only protestant present was Pacific Freight Lines.

Among its operations Pacific Freight Lines provides a highway common carrier service between Los Angeles and San Luis Obispo and intermediate points. Between Santa Barbara and San Luis Obispo service may be given to or from points within ten miles of its authorized route for shipments of ten tons minimum. Other restrictions on this route do not affect the points involved in this proceeding.

Among its operations Valley and Coast Transit Company provides a highway common carrier service between San Francisco, East Bay points, San Luis Obispo, Orcutt and Lompoc, and intermediate points, subject to certain restrictions in the area between San Francisco Bay points, Salinas and King City. It provides an unrestricted service to and from San Luis Obispo and Arroyo Grande and intermediate points, including Avila and Ontario. It also provides an on-call service between San Luis Obispo and Arroyo Grande via Edna and within a zone extending ten miles on each side of the route between such points for minimum truck loads of five thousand pounds.

Bekins Van Lines is providing a highway common carrier service for the transportation of used household goods and office

fixtures and furniture, etc. between Los Angeles and San Francisco and intermediate points, via San Luis Obispo and other points involved herein. Lyons Van Lines and Argonne Van and Storage provide similar services between the same points.

At the rehearing protestants did not introduce any further evidence but relied on their showing at the original hearing. At that hearing evidence was adduced from the testimony of seven public witnesses, three operative witnesses and one witness who provides a local service under a radial highway common carrier permit. Each of the public witnesses is engaged in retail business at Pismo Beach. They testified in substance that they receive an average of one to three shipments weekly from Los Angeles or San Francisco, the large proportion of which are transported by Pacific Freight Lines or Valley and Coast Transit Company. A few interstate shipments and local shipments are received by rail. It was shown that in practically all cases store-door delivery of the rail shipments are made by Valley and Coast Transit. All of these public witnesses stated that they are satisfied with the services now provided for them.

From the testimony of operative witnesses of protestants it was shown that a daily except Sunday and holiday service with next day delivery at Oceano, Pismo Beach and other points is now provided for shipments originating at San Francisco or Los Angeles.

Pacific Freight Lines and Valley and Coast Transit made an offer to the Southern Pacific Company to handle its rail traffic to and from Pismo, Edna and Oceano under either a joint rate, proportional rate, contractual, or any other lawful arrangement. Such offer was not acceptable to that company.

Protestants take the position that no need was shown for an

additional highway common carrier service. Applicant contends that the proposed service will not result in bringing a new carrier into the field but in an improvement upon the presently operated rail service of Southern Pacific Company, of which applicant is a wholly owned subsidiary, which will enable the rail line to render an expedited overnight service between San Francisco and Los Angeles, on the one hand, and points involved, on the other hand. It would also enable Southern Pacific to effect certain rail operating economies in the amount of \$1,765 annually as before stated.

It thus appears that applicant's proposal is based upon a plan to improve the rail service of Southern Pacific Company to and from the points involved. It proposes to handle only traffic which has had or will have a movement over the rails of Southern Pacific Company in addition to the movement by applicant. The record shows that this will result in a more adequate and efficient service for traffic moving between the points proposed to be served by applicant, on the one hand, and points served by Southern Pacific Company, on the other hand. It will also enable the rail company to effect certain operating economies as contended by applicant. The evidence shows that the present service of Southern Pacific is not adequate to meet the needs of the public using its service. In our opinion this record leads to the conclusion, and it is so found, that applicant should be authorized to establish a highway common carrier service which would be auxiliary to or supplemental of the rail service of Southern Pacific Company for traffic having a prior or subsequent movement over the rails of said company, to meet the public need herein shown to exist.

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.

ORDER ON REHEARING

A public rehearing having been had in the above-entitled proceeding, evidence having been adduced, the matter resubmitted, the Commission now being fully advised herein and it having been 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 authorizing the establishment and operation of service as a highway common carrier between San Luis Obispo, Pismo, Oceano, Edna, Tiber and Grover and within a one mile radius of Southern Pacific Company's station at Pismo, Oceano, Edna, Tiber and Grover, subject to the following conditions:

- (1) The service to be performed shall be limited to that which is auxiliary to or supplemental of the rail service of Southern Pacific Company.
- (2) No shipment may be transported unless it shall receive, in addition to movement by applicant, a prior or subsequent movement over the rails of Southern Pacific Company.

IT IS FURTHER ORDERED that in providing service pursuant to the foregoing certificate, the following service regulations shall be observed:

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, appropriate tariffs and time schedules within sixty (60) days from the effective date hereof and on not less than five (5) days' 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 service over and along the following routes:

U. S. Highway No. 101 between San Luis Obispo and Pismo Beach; the public highway between San Luis Obispo and Oceano, via Edna, Tiber and Grover; the public highway between Pismo Beach and Oceano via Arroyo Grande.

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

Dated at ~~San Francisco~~ San Francisco, this 21st day of November 1944.

Justus J. Craven
Francis R. Haven
James D. ...

COMMISSIONERS