

Decision No. 37501

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 to operate motor truck)
service as a common carrier between)
San Diego, National City, Chula Vista,)
Palm City, San Ysidro, Lemon Grove, La)
Mesa, Grossmont, and El Cajon, all in)
the State of California.)

Application No. 26117

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ORIGINAL

- WILLIAM MEINHOLD, for applicant.
- H. P. MERRY, for Southern California Freight Lines and for Southern California Freight Forwarders, protestants.
- HARRY SEE, for Protherhood of Railroad Trainmen and for Brotherhood of Locomotive Firemen and Engineers, protestants.
- C. C. TEMPLE, for Bekins Van Lines, Inc., and for Bekins Van & Storage Company, protestants.
- R. S. STOWELL, for Western Parcel Service, protestant.

CRAEMER, Commissioner:

O P I N I O N

Applicant seeks authority, under Section 50-3/4(c) of the Public Utilities Act of the State of California, to establish motor truck service as a highway common carrier between San Diego, National City, Chula Vista, Palm City, San Ysidro, Lemon Grove, La Mesa, Grossmont and El Cajon, all in the State of California, including the right to perform pickup and delivery service with line-haul equipment at each of said points. All points proposed to be served are stations on the lines of the San Diego and Arizona Eastern Railway. It is proposed to conduct said operations over irregular routes. Public hearings were held at San Diego on June 15 and July 13, 1944.

Applicant presently operates two trucks at San Diego in

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A similar application, No. MC 78786 (Sub. No. 141) involving the transportation of interstate shipments by truck between the same points was filed with the Interstate Commerce Commission on May 4, 1944. Joint Board hearings were also held at San Diego on June 15 and July 13, 1944. Grant E. Syphers, representing the Interstate Commerce Commission, heard the matter. A report recommending that the interstate application be granted has been served on the parties of record. The authority was restricted to service auxiliary to or supplemental of rail service of the San Diego and Arizona Eastern Railway Company.

performing pick-up and delivery service, within the corporate city limits, on shipments moving under store-door rates and billing of the San Diego and Arizona Eastern Railway. No other trucking service is conducted by applicant in this territory. With the exception of San Diego, the San Diego and Arizona Eastern Railway does not now offer to the public store-door pick-up and delivery service at the points involved in this application.² Applicant therefore seeks permission to provide this service under contract with said railway.³ The shipments to be transported by applicant on the proposed truck operation include any and all less-carload freight which may be tendered to the railroad for movement. Service

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Points proposed to be served and limits within which pick-up and delivery service will be rendered as described in applicant's Exhibit No. 3:

<u>Station</u>	<u>Limits</u>
San Diego	City Limits
National City	City Limits
Chula Vista	City Limits
Palm City	Within a radius of one mile from station
San Ysidro	Within a radius of one mile from post office; also all points and places on both sides of U. S. Highway 101 from San Ysidro to the California-Mexico border including the S.D.-A.E. Ry. San Ysidro depot
Lemon Grove	Within a radius of one mile from station
La Mesa	City Limits
Crossmont	Within a radius of one mile from station
El Cajon	City Limits

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Both companies, applicant Pacific Motor Trucking Company and San Diego and Arizona Eastern Railway are wholly owned subsidiaries of Southern Pacific Company.

is proposed on a regular triweekly schedule. ⁴ One 1½-ton rack truck will be used in this operation, loading shipments at San Diego in store-door order for the points to be served, over irregular routes. Applicant will pick up and deliver directly from the line-haul truck and on the same trip. When available, the truck will be used in afternoons, in San Diego, in pick-up and delivery work for the railway. Applicant proposes to coordinate service with the rail service of the San Diego and Arizona Eastern Railway and to make it auxiliary or supplemental thereto. It does not propose to establish local truck rates and solicit business locally but will handle for the railroad, under appropriate tariff publications, any and all local freight tendered to the San Diego and Arizona Eastern Railway for movement to, from or between points proposed to be served.

Applicant's operating witnesses testified that economies in operating expenses for the railway and improved store-door pick-up and delivery service on inbound and outbound shipments would result if applicant is permitted to establish the proposed service.

Proposed Time Schedule
SAN DIEGO - SAN YSIDRO (Southbound)

Service will be provided: Mondays - Wednesdays & Fridays

<u>AM</u>	<u>Miles</u>			<u>PM</u>
8:00	0	Lv San Diego	Ar	2:00
8:15	5	Ar National City		(c)
9:30	9	Ar Chula Vista		(c)
(c)	15	Palm City		(c)
11:50	21	Ar San Ysidro	Lv	1:00

SAN DIEGO - EL CAJON (Eastbound)
Service will be provided: Tuesdays - Thursdays & Saturdays

<u>AM</u>	<u>Miles</u>			<u>PM</u>
8:00	0	Lv San Diego	Ar	1:00
8:30	10	Ar Lemon Grove		(c)
9:10	13	Ar La Mesa		(c)
(c)	16	Crossmont		(c)
10:30	18	Ar El Cajon	Lv	12:15

(c) Truck will call only in connection with regularly operated schedules and only when there is traffic to be discharged or received.

5 The estimated annual cost to applicant for conducting the proposed truck operations is \$2,915. Rail operating economies which will result from coordinated rail-truck service are estimated at \$3,917 per annum. By agreement, San Diego and Arizona Eastern Railway will pay applicant its costs plus one dollar. These figures are on an out-of-pocket cost basis.

Ten public witnesses, business men in the communities named, testified to the unsatisfactory service, or lack of service, that now prevails, and that present trucking and drayage service, where any is available, is slow and unreliable and that they need and want a service as proposed by applicant. It was stipulated that nine additional witnesses, business men in said towns, would give similar testimony.

Southern California Freight Lines, Bekins Van Lines, Inc., R. S. Stowell (Western Parcel Service), and Harry See, representing the Brotherhoods of Railroad Trainmen and Locomotive Firemen and Engineers, protested the granting of applicant's request. The Bekins Company submitted no evidence in support of its protest. The evidence offered by the Brotherhoods does not justify a denial of the application in view of a substantial showing that the public needs and requires the proposed services. Southern California Freight Lines, which conducts extensive trucking operations in this territory, and serves all the points named, contends that there is no need for additional trucking service and that it is ready, able and willing to perform the same service here proposed. For obvious reasons, the San Diego and Arizona Eastern Railway prefers an arrangement, as here indicated, with applicant. Western Parcel Service objects principally on the ground that present trucking and draying facilities are adequate and should be favored. The evidence indicates a need for improved service.

It appears from the record and we find that there is a public need for a service auxiliary to or supplemental of the rail service at the points named; that present local draying facilities are unsatisfactory; that the proposed service will eliminate present delays; that the establishment of the proposed service will not materially affect trucking and draying companies now operating in the territory nor the members of the protesting Brotherhoods; that the proposed arrangement will result in operating economies and better service to the carrier's patrons. We also find that the establishment by applicant of local trucking service

between the points named is not necessary and would not be in the public interest.

Therefore, the application will be granted upon the terms and conditions set forth in the order.

Pacific Motor Trucking Company is hereby 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

A public hearing having been held in the above-entitled proceeding, the matter having been duly submitted, the Commission being fully advised in the premises and it being found as a fact that public convenience and necessity require:

IT IS ORDERED that a certificate be and it is hereby granted to Pacific Motor Trucking Company for the establishment and operation of an automotive service as a highway common carrier, as that term is defined in Section 2½ of the Public Utilities Act, between San Diego, National City, Chula Vista, Palm City, San Ysidro, Lemon Grove, La Mesa, Grossmont and El Cajon, subject to the following restrictions:

- (a) The service to be performed by applicant shall be limited to that which is auxiliary to, or supplemental to the rail service of the San Diego and Arizona Eastern Railway Company.
- (b) Applicant shall not render service to nor from, nor interchange traffic at any point not a station on the rail lines of the San Diego and Arizona Eastern Railway.

- (c) The service authorized shall be limited to the transportation of shipments which it receives from or delivers to the San Diego and Arizona Eastern Railway. All of said shipments shall receive, in addition to the movement by truck, an immediately prior or an immediately subsequent movement by rail.
- (d) Applicant may render store-door pickup and delivery service at the points hereinabove named only within the pickup and delivery zones for each respective point, as defined in the tariff of San Diego and Arizona Eastern Railway filed with this Commission.

IT IS FURTHER ORDERED that in the operation of the highway common carrier service, pursuant to the foregoing certificate, Pacific Motor Trucking Company shall conform 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, 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 such at any time by further order, Pacific Motor Trucking Company shall conduct said highway carrier service over and along the most appropriate route or routes.

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

The foregoing opinion and order are hereby approved and ordered filed as the opinion and order of the Railroad Commission of the State of California.

Dated at San Francisco, California, this
28th day of November, 1944.

Richard H. Lohr
Justin F. Cramer
Francis R. Havenner
Frank W. Cowan
Frank R. Kuehl
COMMISSIONERS