

ORIGINAL

Decision No. 37792

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) Application No. 26281
and necessity to operate motor truck)
service as a common carrier between)
Colton and Kaiser, California.)

WILLIAM MEINHOLD, for applicant.

HUGH GORDON, for Pacific Freight Lines, Pacific
Freight Lines Express and Valley Express
Co., protestants.

H. P. MERRY, for Southern California Freight
Lines and Southern California Freight
Forwarders, interested parties.

D. P. BRYANT, for Bekins Van Lines, Inc., inter-
ested party.

HAROLD J. BLAINE, for Lyon Van & Storage Co.,
interested party.

BY THE COMMISSION:

O P I N I O N

Pacific Motor Trucking Company, a subsidiary of Southern Pacific Company, seeks a certificate of public convenience and necessity under Section 50-3/4 of the Public Utilities Act, authorizing it to establish a motor truck service as a highway common carrier of property between Colton and Kaiser, California, including the right to perform pickup and delivery service with line-haul equipment within zones now or hereafter established at each of said points.
(1)

(1) The limits of the Kaiser area proposed to be served are described as (1) within a radius of one mile of the Southern Pacific Company depot at Kaiser and (2) territory contiguous thereto bounded by Etiwanda Avenue on the west, The Atchison, Topeka & Santa Fe Railway Company tracks on the north, Cherry Avenue on the east, and Valley Boulevard on the south, which includes a portion of the area previously described.

A public hearing was held at Los Angeles on December 12, 1944, before Examiner Chiesa. The matter was submitted on said date and is now ready for decision. (2)

Applicant proposes to file and to concur in tariffs which will set forth rates no lower than the minimum rates prescribed by this Commission in Decision No. 31606, as amended, in Case No. 4246.

In providing the proposed service applicant will use such equipment as is usually employed by it in similar operations and as may be necessary to accommodate the traffic. Said highway common carrier service will be conducted over and along the most appropriate route or routes.

Pacific Motor Trucking Company now operates as a common carrier by motor truck between San Bernardino and various points including Colton (Decision No. 33431; 42 CRC 745, 797). (3)

Kaiser is approximately nine miles west of Colton on U. S. Highway No. 99. Both points are stations on the Southern Pacific Company's rail line which runs parallel to, and immediately

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- (2) A similar application, No. MC-78786 (Sub. No. 149), involving the transportation of interstate shipments by truck between the same points was filed with the Interstate Commerce Commission on August 7, 1944. Joint Board hearing was held at Los Angeles on December 12, 1944. F. Roy Linn, Examiner, 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 service authorized to be performed was limited to that which is auxiliary to, or supplemental of, rail service of the Southern Pacific Company and to shipments which, in addition to the movement by applicant, receive an immediately prior or an immediately subsequent movement by rail.
- (3) Applicant possesses other operative rights affecting Colton but which are not material in the consideration of the present application. (See Decision No. 33821, as amended by Decision No. 34088, and Decision No. 35006).

south of, said highway.

At Kaiser, California, there is a large steel mill presently engaged in the manufacture of iron and steel articles, principally steel plates used in the construction of ships. This industrial plant covers about 1,200 acres, located one to two miles northeast of the Kaiser station of the Southern Pacific. Other than a shell plant, also located on the Kaiser Company property, there are very few commercial or industrial establishments within the area proposed to be served as this locality is rural in character.

The traffic manager for Kaiser Company, Inc. testified that said company's less-carload shipments amount to between 300,000 and 400,000 pounds a month, mostly interstate inbound freight; that the Southern Pacific has a switch track at Kaiser Plant but that the latter does not have the usual track and other facilities to take care of rail less-carload shipments; that The Atchison, Topeka & Santa Fe Railway Company also has a station at Kaiser but no rail less-carload freight is received at or shipped from such station; that less-carload shipments moving via Southern Pacific are now carried to and from Colton on Kaiser Company trucks and because of the inconvenience of having to call for these shipments, Kaiser Company has been requesting routing via other carriers; ⁽⁴⁾ that his company desires and would use the service as proposed by applicant as it would eliminate the need for using company trucks; that the Kaiser Company's policy is to fairly

(4) This witness testified that the present less-carload traffic to and from the Kaiser plant is carried approximately as follows:

3% by Kaiser Company trucks, between Southern Pacific station at Colton and Kaiser Plant
 63% by Santa Fe Transportation Company
 34% by Pacific Freight Lines

apportion less-carload traffic among all carriers satisfactorily serving the plant.

An operating witness testified that rail less-carload service at the Kaiser plant is impracticable because of the lack of depot facilities; that applicant proposes to serve the plant daily except Sunday, using a line-haul truck based at Colton, which is the Southern Pacific's rail less-carload set-out point for this area, which truck would also be used for pickup and delivery service at San Bernardino, Bloomington, Colton, and Redlands; that the proposed service would be coordinated with, and auxiliary to, or supplemental of, the rail service of the Southern Pacific, and is essential in providing a necessary and satisfactory pickup and delivery service for less-carload shipments to and from the Kaiser area; that the proposed service would be performed by applicant for the railway company at cost plus one per cent in accordance with the terms of an agreement heretofore filed with this Commission.

The evidence shows that the estimated annual cost of providing the proposed truck service is two thousand dollars (\$2,000) whereas a comparable service by rail would cost approximately six thousand two hundred dollars (\$6,200). It was also estimated that applicant's less-carload revenue through Colton to Kaiser would amount to approximately \$5,787 a year calculated on a volume of 100,000 pounds per month.

The protests of Pacific Freight Lines, Pacific Freight Lines Express, and Valley Express Co. were withdrawn when applicant

(5) Proposed Schedule:

7:45 A.M. Lv. Colton Ar. 9:40 A.M.
8:10 A.M. Ar. Kaiser Lv. 9:15 A.M.

agreed to accept a restriction that the proposed service be limited to shipments which shall receive, in addition to the movement by truck, a prior or subsequent movement by the rail lines of the Southern Pacific Company or The Atchison, Topeka & Santa Fe Railway Company. Bekins Van Lines, Inc. and Lyon Van and Storage Co. did not oppose the granting of the application when it became known that applicant does not propose to transport household goods unless they are packed in accordance with the provisions of the Western classification. Pursuant to a stipulation satisfactory to Southern California Freight Lines and Southern California Freight Forwarders their protest was withdrawn.

Based on the record we find that there is a public need for a service as proposed and, 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 that public

convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it is hereby granted to Pacific Motor Trucking Company, a corporation, authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, between Colton and Kaiser, California, subject to the following conditions and restrictions:

- (a) Applicant shall not render service to nor from, nor interchange traffic at any point not a station on the rail lines of the Southern Pacific Company or The Atchison, Topeka & Santa Fe Railway Company.
- (b) The service authorized shall be limited to the transportation of shipments which it receives from or delivers to the Southern Pacific Company or The Atchison, Topeka & Santa Fe Railway Company. All of said shipments shall receive, in addition to the movement by truck, an immediately prior or an immediately subsequent movement by rail.
- (c) Applicant may render store-door pickup and delivery service at the points hereinabove described when within the pickup and delivery zones for each respective point, as defined in the tariff of the Southern Pacific Company or The Atchison, Topeka & Santa Fe Railway Company presently on file with the Commission and in effect.

(2) 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 the date hereof.

Dated at San Francisco, California, this 10th day of April, 1945.

H. Harold Anderson
Justin F. Casper
Richard Kachse
Francis W. Coe
Frank J. Puccio
 COMMISSIONERS