

Decision No. 37850

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)	
PACIFIC MOTOR TRUCKING COMPANY, a)	
corporation, for a certificate of)	
public convenience and necessity to)	Application No. 19062
operate motor vehicles for the trans-)	Ninth Supplemental
portation of property over the public)	
highway between Famoso and Lerdo,)	
California.)	

WILLIAM MEINHOLD, for applicant.

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

HAROLD FRASHER, for Valley Motor Lines, Inc. and Valley Express Company, protestants.

BY THE COMMISSION:

NINTH SUPPLEMENTAL OPINION

Pacific Motor Trucking Company, a subsidiary of Southern Pacific Company, seeks a certificate of public convenience and necessity under Section 50-3/4. Public Utilities Act, authorizing operation as a highway common carrier between Famoso and Lerdo in Kern County, including the right to perform a pickup and delivery service at each of these points. Certain carriers now serving the territory appeared as protestants, viz., Pacific Freight Lines and its affiliate, Pacific Freight Lines Express; and Valley Motor Lines, Inc., and its affiliate, Valley Express Company. By a companion application (Docket No. MC-78,786, Sub 152), filed with the Interstate Commerce Commission, Pacific Motor Trucking Company also sought authority to establish an interstate service between the same points. These proceedings were heard jointly before Examiner F. R. Linn of the Interstate Commerce Commission and

Examiner Austin of the Railroad Commission at San Francisco on January 10, 1945, when they were submitted on a common record.

Pursuant to certificates previously granted by this Commission, applicant is authorized to conduct a highway common carrier operation between Fresno and Famoso and certain intermediate points, limited to the carriage, between rail stations, of freight previously consigned for transportation over the lines of Southern Pacific Company, Visalia Electric Railway Company and Sunset Railway Company. ⁽¹⁾ Subsequently, applicant was authorized to perform a pickup and delivery service at these points. The service was routed via U. S. Highway No. 99, and also in part via California State Highway No. 65, which converge at Famoso. Applicant also conducts a highway common carrier service between Bakersfield and Lerdo, a point situated approximately 11 miles ⁽²⁾ north of Bakersfield. By the instant application it proposes to close the gap between Lerdo and Famoso, a distance of approximately 8 miles. No intermediate points would be served.

Applicant's proposal contemplates extensive changes in its method of operation. At present truck operations within this territory are based on Fresno and Bakersfield, where less-carload rail traffic breaks bulk. Truck operations originating at Fresno serve points as far south as Famoso, a distance of 87 miles; those originating at Bakersfield serve Sunset Railway and other points, including Lerdo. Applicant proposes to serve from Fresno, as a

(1) Decision No. 27235, dated July 30, 1934, and supplemental decisions, in Application No. 19062. Service was also authorized between Bakersfield and points east, south and west of that city.

(2) Decision No. 34155, dated May 6, 1941, in Application No. 24077.

base point, the territory north of Earlimart and Ducor, situated respectively on U. S. Highway No. 99 and State Highway No. 65, distant 35 and 38 miles north of Bakersfield; and from Bakersfield, as a base point, it would serve the territory lying south of those points. Included within the latter area would be McFarland and Delano on U. S. Highway No. 99 and Jasmin and Richgrove on State Highway No. 65. The truck operation would be coordinated with the rail service, handling only traffic moving between Southern Pacific rail points.

Considerable economies, it was shown, would be effected. By rearranging its truck operations as described, applicant estimates it would save approximately 20,000 miles of power equipment operation annually. Overflow trips now necessary would be eliminated. The annual net savings thus accomplished, it is stated, would amount approximately to \$2,455. Rail expenses would be but slightly affected, since the freight moving to and from the territory described would be handled at Bakersfield, instead of Fresno, at approximately the same cost. However, the shifting of the traffic to Bakersfield would tend to relieve the present acute congestion at Fresno. There is ample space in the Bakersfield car for the additional tonnage.

To and from these points, there is a substantial movement of less-carload traffic. During July, 1944, a representative period, the inbound and the outbound intrastate tonnage amounted, respectively, to 217,275 and 22,653 pounds; and during the same period the traffic moving locally between Bakersfield and Delano aggregated 7,186 pounds.

Applicants having consented to the imposition of certain

restrictions regarding the character of service to be provided, protestants withdrew their objections to the application. In both proceedings, the parties stipulated that the service conducted should be auxiliary to and supplemental of rail service, and that no through trucks should be operated between Bakersfield and points south thereof, on the one hand, and Fresno and points north thereof, on the other hand. As to the instant proceeding, it was further stipulated that any operative right granted thereunder should not be used in combination with any other operative right held by applicant to permit the operation of through service between Fresno and points north thereof, on the one hand, and Bakersfield and points south thereof, on the other hand, without first obtaining from this Commission a certificate permitting such through operation.

In view of the showing made, the application will be granted, subject to the restrictions specified in the stipulation mentioned.

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.

NINTH SUPPLEMENTAL ORDER

Application having been made as above entitled, a public hearing having been had, 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 Famoso and Lerdo in Kern County; and authorizing the performance of store-door pickup and delivery service at each of said points. Said certificate is granted subject to the following limitations:

- (a) The service performed hereunder by applicant shall be limited to that which may be auxiliary to or supplemental of the rail service of Southern Pacific Company.
- (b) Applicant shall not render service to or from, nor interchange traffic at, any point not a station on the rail lines of Southern Pacific Company.
- (c) Applicant may render store-door pickup and delivery service at the points hereinabove described only within the pickup and delivery zones for each respective point, as defined in the tariff of Southern Pacific Company, presently on file with the Commission and in effect.
- (d) No through trucks shall be operated between Bakersfield and points south thereof, on the one hand, and Fresno and points north thereof, on the other hand.
- (e) The operative right granted hereunder shall not be used in combination with any other operative right held by applicant to permit the operation of through service between Fresno and points north thereof, on the one hand, and Bakersfield and points south thereof, on the other hand, without first obtaining from this Commission a certificate of public convenience and necessity permitting such through operation.

(2) That in providing service pursuant to the certificate herein granted, 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, appropriate tariffs and time schedules 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 the Commission to change or modify such route by further order, applicant shall conduct such highway common carrier operations over and along the following route:

From Famoso southerly to Lerdo via U. S. Highway No. 99.

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

Dated at San Francisco, San Francisco, this 1st day of May, 1945.

Harold Anderson
Justin D. Casner
Richard L. Baker
Francis C. ...
... ..
COMMISSIONERS