

Decision No. 38713

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

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)
El Monte, Bassett and Puente, California.)

Application No. 26542

WM. MEINHOLD, for applicant.

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

ARLO O. POE and WYMAN C. KNAPP by WYMAN C. KNAPP,
for Motor Truck Association of
Southern California, protestant.

O P I N I O N

Pacific Motor Trucking Company by the above entitled application seeks a certificate of public convenience and necessity authorizing it to operate a highway common carrier service between El Monte and Puente, serving the intermediate point of Bassett,

Public hearing was held before Examiner Chiesa June 14, 1945, at Los Angeles. Evidence was introduced and the matter submitted on that date. Subsequently submission was set aside and oral argument was heard on January 30, 1946, on this application and two others, before the Commission sitting en banc.

Applicant's proposed operation is designed to improve present transportation service to Bassett and Puente, which is rendered by Southern Pacific Company. Traffic destined to Puente and Bassett now moves by Southern Pacific Railroad to Pomona where bulk is broken. Shipments for Puente and Bassett are accumulated until there is sufficient tonnage to justify use of a rail car. The traffic is then shipped westerly on a local train from Pomona to

Puente and Bassett. Under the present method it takes approximately four days, on the average, to complete transportation of shipments from Los Angeles to Bassett and Puente.

If this application is granted it is planned to gather shipments destined to El Monte, Bassett and Puente at the Pacific Electric freight station in Los Angeles. Such traffic will be transported by Pacific Electric Railway box motor from Los Angeles to El Monte. Pacific Electric Railway now operates two box motors in the morning from Los Angeles to El Monte. One leaves at 6:05 a.m. and arrives at 7:30 a.m.; the other leaves at 10:00 a.m. and arrives at 11:00 a.m. At El Monte applicant will lease a contract drayman's truck and employ a driver to operate it between El Monte, Bassett and Puente. Shipments for Bassett and Puente will be handled from El Monte in such truck. Applicant also seeks the right to provide store-door pickup and delivery service to El Monte, Bassett and Puente. The service will be "on-call" Mondays, Wednesdays and Fridays.

Applicant invites the Commission to consider the imposition of certain conditions on the authority sought if it is granted. The restrictions are that service to be performed be limited to that which is auxiliary to or supplemental of rail service; that applicant shall serve only points which are stations on a railroad; and that shipments transported shall be limited to those which, in addition to movement by applicant, shall receive an immediately prior or subsequent rail haul.

Although two protestants appeared at the hearing they did not object to the granting of the application, agreeing that improvements of service should be made when appropriate. However, they did urge both at the hearing and in oral argument before the

Commission that any certificate granted should contain a restriction prohibiting it from ever being linked up or joined with any other right or rights of applicant without first proving that public convenience and necessity require such consolidation.

The evidence of record shows that present service to Puente and Bassett is unsatisfactory and that applicant's proposed operation will result in an improvement needed by the public. Pacific Motor Trucking Company will provide, in addition to expedited transportation, store-door pickup and delivery service at those points and El Monte. This is not available now. The truck operation will be coordinated with the rail service of Southern Pacific Company and Pacific Electric Railway Company. Inasmuch as the proposed operation is essentially an improvement of rail service, authority to render it should be so restricted as to insure confinement to such objective.

If the requested certificate is granted, the proposed truck route between El Monte, Bassett and Puente would not connect at any point with existing rights of Pacific Motor Trucking Company. Therefore, no reason appears for the imposition of a prohibition against consolidation of this right with others held by applicant. Protestants have made clear to the Commission their apprehension that Southern Pacific Company through the agency of Pacific Motor Trucking Company is attempting to develop a state-wide rail controlled highway common carrier service. Should applicant subsequently seek a certificate which would bridge the gap between the proposed operation and any other rights of Pacific Motor Trucking Company, the Commission will consider at that time the advisability of imposing a restriction against consolidation. Such a prohibition would be premature and unwarranted in this proceeding.

After full consideration of the evidence of record in this matter and the briefs and oral argument presented in connection therewith, the Commission is of the opinion and finds that public convenience and necessity require that this application be granted.

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

IT IS ORDERED that a certificate of public convenience and necessity is granted to Pacific Motor Trucking Company authorizing it to operate a highway common-carrier service "on-call" Mondays, Wednesdays and Fridays between El Monte and Puente, serving the intermediate point of Bassett, and to perform store-door pickup and delivery service at such points within the pickup and delivery zones defined and prescribed in Decision No. 31606, as amended, in Case No. 4246, subject to the condition that shipments transported shall be limited to those which, in addition to movement by Pacific Motor Trucking Company, shall receive an immediately prior or subsequent rail haul by Southern Pacific Company or Pacific Electric Railway Company.

IT IS FURTHER ORDERED that in conducting highway common carrier operations pursuant to the above certificate, Pacific Motor Trucking Company shall comply with and observe the following service regulations:

- a. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.
- b. 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 tables within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public.
- c. Applicant shall conduct such highway common carrier service over and along the most appropriate streets, roads or highways between the points it is authorized to serve.

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

Dated at San Francisco, California, this 26th day of February, 1946.

Howard Rudner
Justin F. Green
Wm. H. Dwyer
Harold H. Huls
 COMMISSIONERS