

ORIGINAL

Decision No. 44036

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
J. S. GINOCCHIO, doing business as)
NEVADA CALIFORNIA TRANSPORTATION CO.,)
for a certificate of public conven-)
ience and necessity to operate as a)
highway common carrier between certain)
points in Northeastern California.)

Application No. 30380

Marvin Handler, for Applicant.

W. A. Gregory, for Southern Pacific Company, Protestant.

O P I N I O N

By his application, as amended, J. S. Ginnochio, trans-acting business under the trade name of Nevada California Transportation Co., sought a certificate of public convenience and necessity authorizing the extension of the operations in which he was then engaged, as a highway common carrier, between certain points in Northeastern California. The application was opposed by Southern Pacific Company, which appeared as a protestant. A public hearing was had before Examiner Austin at Susanville on September 20 and 21, 1949, when the matter was submitted.

From an amendment to the application, filed February 14, 1950, it appears that the applicant, J. S. Ginocchio, died on January 8, 1950. His widow, Carrie E. Ginocchio, who has been duly appointed executrix of his estate, requests that she be

(1)
substituted as the applicant herein, in his stead. In the following order, such a substitution will be authorized.

Applicant's existing operations, and those which he sought to establish, were described by J. S. Ginocchio and his son, Robert Ginocchio. In support of his proposal, applicant called shipper-witnesses, who related their need for the service. Through an operating official, protestant described the service which it has supplied within the territory involved. Also, shipper-witnesses were produced.

Specifically, applicant seeks operating authority as a highway common carrier, as follows:

- (a) Between Chester and Westwood, respectively, and Halleclujah Junction and intermediate points (including Greenville, Crescent Mills, Quincy, Portola and Vinton), and points situated within one mile laterally of the route traversed;
- (b) Between Johnstonville and Alturas and intermediate

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- (1) The verified amendment to the application alleges that applicant, J. S. Ginocchio, died on January 8, 1950; that Carrie E. Ginocchio was duly appointed executrix of his estate, on January 27, 1950, by the Second Judicial District Court of the State of Nevada, in and for the County of Washoe; and that said executrix has appointed Robert Ginocchio as manager of the business. The latter (who is the son of Carrie E. Ginocchio and the late J. S. Ginocchio) has been actively associated with the operation for several years, it is alleged, and is fully capable of conducting the business efficiently. It is requested that Carrie E. Ginocchio, as such executrix, be substituted for J. S. Ginocchio, deceased, as the applicant herein. Accompanying the amendment is a certified copy of Letters Testamentary, issued January 27, 1950, in the probate proceeding, to Carrie E. Ginocchio, as Executrix of the Estate of John S. Ginocchio, deceased. The term "applicant", as used in this opinion, shall be deemed to include not only J. S. Ginocchio but his executrix as well, or such executrix alone, whenever the context may indicate that this would be appropriate.

- points (including Standish, Litchfield, Ravendale, Termo, Madeline and Likely); and points situated within one mile laterally of the route traversed;
- (c) Between Purdy and a point on U. S. Highway No. 395 at the California-Nevada border, near Doyle;
- (d) Herlong, situated southeast of Litchfield, near Honey Lake, would be served as an off-route point. ⁽²⁾

Under a certificate issued by the Interstate Commerce Commission, ⁽³⁾ applicant is engaged in the transportation of interstate traffic, as a common carrier by motor vehicle, between points in this state which he now seeks to serve as a highway common carrier, as well as between points which he currently serves in that capacity. If this application were granted, his intrastate operations would be coextensive, except in minor particulars, ⁽⁴⁾ with his interstate operations in California.

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- (2) The operations embraced within applicant's proposal, as described above, would extend through Sierra, Lassen, Plumas and Modoc Counties. They would be conducted over certain highways, specified in the application.
- (3) This certificate (which superseded earlier certificates issued to the same carrier) was granted, on May 25, 1949, in Docket No. M.C. 30,005, to John S. Ginocchio, doing business as Nevada California Transportation Company (the applicant herein). It authorized the transportation of general commodities (subject to the usual exceptions): Between Reno, Nevada, and Westwood, California (via Doyle, Johnstonville and Susanville), serving Herlong as an off-route point; between Reno, Nevada, and Keddie, California (via Hallclujah Junction, Reno Junction, Portola, Blairsden and Quincy), serving Walker Mine as an off-route point during the season, June to November; between Johnstonville and Alturas (via Standish, Litchfield, Ravendale, Termo, Madeline and Likely); between Keddie and Westwood (via highway extending along the eastern shore of Lake Almanor); between a designated junction point, on the last mentioned highway, and Chester (via highway extending along the western shore of Lake Almanor); and between Westwood and Chester (via highway extending along the northern shore of Lake Almanor), serving also off-route points within two miles of Chester. All intermediate points situated along these routes may also be served.
- (4) Applicant is not authorized, as a highway common carrier, to serve Walker Mine, which may be served seasonally under his interstate certificate. In the instant proceeding, applicant does not propose to serve this point.

Applicant's intrastate operations extend only to part of the territory which he serves, within this state, under his interstate certificate. For many years, he has operated as a highway common carrier between the California-Nevada border, near Hallelujah Junction, and Westwood (via Doyle, Milford, Johnstonville and Susanville), serving also all intermediate points. Subsequently, the service was extended to Herlong; and later, from Westwood to Chester.

Terminals are maintained at the principal points. Such facilities are provided at Reno, Nevada (where applicant's headquarters are situated); at Alturas; and at Susanville. Applicant plans to establish another terminal at Quincy, should this application be approved. Agents are stationed at Alturas, Susanville and Westwood; and one would be located at Quincy, if a terminal were established there.

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- (5) The operative right described above was acquired by applicant, J. S. Ginocchio, pursuant to Decision No. 20620, dated December 22, 1928, in Application No. 15237. This contemplated the operation of a highway common carrier service between the California-Nevada state line (on U. S. Highway No. 395, near Hallelujah Junction) and Westwood, and intermediate points, via Doyle, Milford, Johnstonville and Susanville.
- (6) By Decision No. 35200 (an interim order rendered March 31, 1942 in Application No. 24775) applicant J. S. Ginocchio was authorized to operate as a highway common carrier between Bird Flat School House (on U. S. Highway No. 395) and the U. S. Army Ordnance Depot at Honey Lake Valley (now known as Herlong). The final order in this proceeding (Decision No. 38128 dated August 14, 1945) authorized an extension of applicant's operations, as a highway common carrier, from Westwood to Chester. In that proceeding, Ginocchio also sought a certificate to operate between Johnstonville and Alturas, and intermediate points; and between Hallelujah Junction and both Chester and Westwood, and intermediate points, via Portola, Quincy and Keddie. However, authority to serve these points was withheld by Decision No. 38128.

To supply the service, applicant would continue to use the equipment employed in his present operations, both interstate and intrastate. This comprises some 33 units, consisting of pickup trucks and line-haul tractors, semi-trailers and trailers. The (7) equipment available would be adequate to provide both the existing and the proposed service, it was stated. However, applicant contemplates replacing some of the line-haul equipment with larger units.

Under the time-schedules submitted, service would be (8) afforded daily, except Sundays and holidays, throughout the system.

- (7) The existing fleet comprises eight line-haul tractors; thirteen 15-ton semi-trailers (two of which are insulated) four 12-ton trailers; and eight pick-up trucks, ranging in capacity, as follows: two 2½-ton trucks, two 4-ton trucks, and four 7½-ton trucks. Of these pick-up trucks, six (including one 2½-ton truck, two 4-ton trucks, and three 7½-ton trucks) are stationed at Reno; one 7½-ton truck, at Alturas; and one 2½-ton truck, at Susanville. At these points, they are used to facilitate or provide the pick-up and delivery service.
- (8) Applicant proposes to operate, daily except Sundays and holidays, under the following time-schedules:

<u>SCHEDULE "A"</u>			<u>SCHEDULE "E"</u>		
<u>(Read Down)</u>			<u>(Read Up)</u>		
6:00 AM	Lv. Reno	Ar.	7:30 PM		
7:00 AM	Ar. Hallelujah Jct.	Ar.	6:30 PM		
8:00 AM	Ar. Portola	Lv.	----		
9:00 AM	Lv. Portola	Ar.	6:00 PM		
11:00 AM	Ar. Quincy	Lv.	4:45 PM		
11:15 AM	Lv. Quincy	Ar.	4:30 PM		
12:15 PM	Ar. Greenville	Lv.	4:00 PM		
1:15 PM	Lv. Greenville	Ar.	3:30 PM		
2:15 PM	Ar. Chester	Lv.	2:30 PM		
2:30 PM	Lv. Chester	Ar.	1:30 PM		
3:00 PM	Ar. Westwood	Lv.	1:00 PM		
3:30 PM	Lv. Westwood (a)	Ar.	12:00 Noon		
4:30 PM	Ar. Susanville	Lv.	11:00 AM		

- (a) Schedules "A" and "E" would connect at Susanville with Schedules "C" and "D", thus permitting through movement of traffic between points on these routes.

(This footnote is continued on Page 6)

At present, such a service is provided at some points, but the remainder are served only three times a week. It is contemplated that same-day or first-day delivery of freight would be made

(8) (Continued from Page 5)

SCHEDULE "B"	SCHEDULE "C"		SCHEDULE "C"	SCHEDULE "B"
(Read Down)	(Read Down)		(Read Up)	(Read Up)
5:00AM-Lv	5:00AM-Lv	Reno	Ar- 6:30PM	Ar- 3:00PM
6:00AM-Ar	6:00AM-Ar	Hallelujah Jct.	----	----
7:00AM-Ar	7:00AM-Ar	Doyle	----	----
7:30AM-Lv	7:30AM-Lv	Doyle	----	----
----	8:00AM-Ar	Herlong	----	Lv- 1:00PM
----	9:00AM-Lv	Herlong	----	Ar-11:00AM
9:30AM-Ar	10:30AM-Ar	Susanville	Lv- 3:00PM	Lv-10:00AM
	11:00AM-Lv	Susanville	Ar- 2:30PM	
	1:00PM-Ar	Ravandale ^(b)	Lv- 1:30PM	
	SCHEDULE "D"		SCHEDULE "D"	
	1:30PM-Lv	Ravandale	Ar- 1:00PM	
	5:00PM-Ar	Alturas	Lv-10:00AM	

(b) The drivers operating under Schedules "C" and "D" would exchange trailers or semi-trailers at Ravandale, thus providing through service between Reno, Susanville and Alturas, via Doyle.

SCHEDULE "F"

(Read Down)		(Read UP)
6:00AM-Lv	Reno	Ar-4:00PM
7:00AM-Ar	Hallelujah Jct.	Ar-3:00PM
8:00AM-Ar	Doyle	----
8:30AM-Lv	Doyle	----
9:30AM-Ar	Herlong	Lv-1:00PM

(9) Daily service (except Sunday) is provided between Reno and Susanville and intermediate points, including Hallelujah Junction, Doyle and Herlong. This extends both to interstate and to intrastate operations. Between all other points, service is furnished three times a week.

(10)
available to shippers generally; at some points, however, this
(11)
would not always be practicable. Pick-up and delivery service would
(12)
be furnished universally.

Applicant anticipates an increase in the tonnage carried, if he were permitted to extend his intrastate operations, as proposed. This would comprise less-truckload shipments of general commodities. There is ample space in his existing equipment to accommodate this traffic, it was said. Admittedly, some of this

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- (10) Under the proposed time-schedules, shipments leaving Portola and Quincy during the morning, and leaving Greenville, Chester and Westwood during the afternoon, would reach Susanville by 4:30 PM. Shipments leaving Susanville at 11 AM would reach Westwood and Chester by early afternoon; Greenville, by 3:30 PM; Quincy, by 4:30 PM; and Portola, by 6:00 PM. Freight moving north from Susanville (leaving there at 11:00 AM) would reach Alturas at 5:00 PM, arriving at intermediate points earlier in the afternoon. In the opposite direction, freight leaving Alturas at 10:00 AM would reach Susanville at 2:30 PM. Shipments moving in either direction between Susanville and Doyle and intermediate points (including Milford, Herlong and Johnstonville) would receive same-day delivery. Westbound shipments from the territory, Doyle to Johnstonville, inclusive, would be delivered on the same day at Westwood, Chester and Greenville. Eastbound shipments from the latter points would be delivered on the following afternoon at points extending from Johnstonville to Doyle. Freight leaving points extending from Portola to Westwood (including Quincy, Greenville and Chester) during the morning and early afternoon would reach Alturas at 5 PM on the following day. In the opposite direction, freight leaving Alturas during the morning would arrive on the afternoon of the following day at points, Westwood to Portola, reaching Portola at 6 PM.
- (11) Freight arriving at a point late in the afternoon might not be delivered to the consignee until the following day, it was stated. For example, under the schedule indicating arrival at Alturas by 5:00 PM, perishable commodities would be delivered immediately, and the remainder held over until the following morning.
- (12) At most communities, the pick-up and delivery service would be performed by the line-haul equipment. At others, however, it would be provided by pick-up trucks stationed there. This would be true as to Susanville and Alturas, where applicant maintains pick-up equipment; and also, as to Quincy and Westwood, where the service would be supplied through the facilities of applicant's agents, who also are engaged in local drayage activities.

freight would be diverted from the carriers in the field, including protestant. The record does not disclose the volume of the present movement, nor of that which applicant expects to enjoy.

Pursuant to an arrangement with Southern Pacific Company, applicant for some time has been engaged in the transportation of freight (received by the former from its patrons, and thus being considered as railroad traffic) from Westwood, Susanville and Litchfield to Reno, where it is returned to that carrier for further handling. This agreement does not cover traffic moving in the opposite direction. From Reno, these shipments would move to other points reached by Southern Pacific, including Alturas. ⁽¹³⁾ The showing ⁽¹⁴⁾ regarding the volume of this tonnage was somewhat indefinite. Applicant also interchanges traffic with Pacific Motor Trucking Company, at Alturas.

Applicant admittedly transports shipments between points which he may serve as a highway common carrier, and other points in this state which are not embraced within the scope of his intrastate operative rights. This traffic moves from Westwood and Susanville to points north of Johnstonsville, extending from Litchfield to Alturas. It is considered as interstate in character, since it is handled via Reno, Nevada. The rates assessed are based upon the combination of the local interstate rates to and from Reno;

(13) Protestant's representative testified that a check of the station agent's records, at Susanville, from June to September, 1949, disclosed no movement during this period from Susanville to any Southern Pacific stations within the scope of this application, including Ravendale, Madeline and Alturas.

(14) During a thirty day period (between June and September 1949), it was stated, applicant hauled some 17,000 pounds of freight from Susanville to Reno, under his arrangement with protestant. No tonnage figures were submitted covering the movement from any other points, such as Westwood or Litchfield.

consequently, they are considerably higher than those which normally would be applicable to the direct, intrastate movement between these points. Usually, these shipments are in transit from two to three days. Applicant has accepted this traffic at the insistent request of the shippers, it was said; he has not engaged in the solicitation of this business.

The rates to be established are based upon the minimum rates prescribed by the Commission in Highway Carriers' Tariff No. 2, applicable to shipments weighing up to and including 20,000 pounds. They also would conform to the Commission's constructive mileage table. Applicant anticipates that practically all of the traffic would move under class rates; very little, it is believed, would be handled under commodity rates.

Evidence was offered disclosing the financial results of applicant's present operations, both interstate and intrastate. The latest available balance sheet, and profit and loss statement, were submitted. The record discloses that applicant is qualified financially to carry on the operations in which he proposes to engage.

The evidence touched lightly upon the operations of other carriers within this territory, aside from those of Southern Pacific Company. The service provided by the latter will be described presently. Along its Feather River route, Western Pacific Railroad Company serves such communities as Keddie, Quincy (through Quincy Junction), Blairsden, Portola and Vinton; a branch line extending north from Keddie reaches Crescent Mills, Greenville and Westwood. Both Pacific Greyhound Lines and Mt. Lassen Transit Co., which provide a passenger stage service at many of the points involved,

carry express shipments upon their buses. Valley Motor Lines, Inc. also serves some of these points as a highway common carrier. The record, however, does not clearly define the scope of their operations.

In support of his proposal, applicant called some twelve shipper-witnesses. Of these, ten represented firms located at Susanville; one was engaged in business at Termo; and one appeared as spokesman for the Susanville Chamber of Commerce. They dealt in a wide variety of commodities. (15)

These shippers related their need for an adequate transportation service. In undertaking to market their products within the territory which applicant proposes to serve, Susanville shippers, it was stated, are faced with competition from distributors situated at other points such as Sacramento, Oroville and Red Bluff. Some of the shipper-witnesses maintain branch establishments at other towns in this area.

Several of them testified they had been unable to reach many points within this territory. For example, some have found it possible to dispose of their wares at Crescent Mills and Greenville, but not at more distant points such as Quincy, Portola and Alturas.

The shippers attribute their difficulties to the inability of the existing public transportation agencies to meet their requirements. The rail service afforded by Southern Pacific Company

(15) The Susanville shippers dealt in, or were engaged in the distribution of automobile and truck parts, accessories and equipment; farm implements and machinery; hay, grain and feed; sprays and disinfectants; furniture; household appliances; hardware; clothing; manufactured doors and windows; wine, beer and soft drinks; and packaged petroleum products. A shipper at Termo conducted a general store, dealing in groceries, hardware, liquors, gasoline and oil.

between Susanville and Alturas is too slow, some stated. Because of weight limitations, and the absence of store-door pickup and delivery, the express service provided by Pacific Greyhound Lines and Mt. Lassen Transit Co. over their respective routes is not satisfactory, several testified. Some have used applicant's facilities, routing their shipments via Reno as described above, but have found the service slow and expensive.

A merchant at Termo also described his transportation requirements. To obtain his merchandise shipments, he must drive both to Alturas and Susanville (located, respectively, 47 miles north, and 61 miles south, of Termo), using his own truck for this purpose. Since Southern Pacific maintains no agent at Termo, less-carload shipments are put off, at owner's risk, along the track, he stated. Some small shipments from Alturas are handled by Pacific Greyhound.

All would ship their products over applicant's lines if he were permitted to extend his operations, so they stated. Such a service, it was said, would enable them to meet competition and thus expand their markets throughout this territory. Moreover, it would satisfy the need for greater expedition, particularly with respect to shipments of an urgent nature. ⁽¹⁶⁾ Their tonnage, it was shown, would be substantial in volume and would move regularly. A few, who had employed their own trucks for the distribution of

(16) Some Susanville shippers maintain branch establishments at Alturas; others deal with bulk plants there which handle products similar to their own. At times, the need arises for prompt dispatch of supplies from Alturas to Susanville, or vice versa, to fill orders of an urgent nature. On these occasions, it was said, an expeditious transportation service between these points is essential.

their products, would continue to do so, relying upon applicant to transport shipments which could not thus be accommodated conveniently; others, however, either would discontinue, or would greatly curtail, the use of such facilities.

The Secretary of the Susanville Chamber of Commerce described the commercial and industrial development of that community and its tributary territory. The population of Susanville, he testified, is around 6000 (according to a recent count made by the Federal Census Bureau); an additional 4,000 people reside within the trade area (including Johnstonville, Standish, Litchfield and portions of the Westwood territory⁽¹⁷⁾). Lumbering is the principal industry; the livestock industry also is important. Susanville has become a vacation center for those engaged in hunting and fishing.

We turn now to the showing offered by Southern Pacific Company in support of its protest. A representative of the Bureau of Transportation Research described the operations of that carrier, and the service which it provided.

The rail lines of this protestant traverse portions of the territory involved in this proceeding. From Fernley, Nevada, the junction with the Southern Pacific main east-west route, a line (designated as the main line) extends northward through Wendel, Ravendale, Madeline and Likely to Alturas, where it connects with other lines reaching points in Oregon. From Wendel, a branch line extends westerly through Litchfield, Susanville and Westwood to Mason.

(17) The record discloses that the population of certain points situated north of Susanville is approximately as follows: Standish, 100; Ravendale, 50; Termo, 50; Madeline, 50; and Likely, 300.

Over these lines, a rail freight service is performed. Freight trains operate on the main line between Reno and Alturas, via Fernley; and on the Westwood branch, between Wendel (the junction with the main line) and Westwood. Cars containing less-carload freight do not move directly between main and branch line points such as, for example, between Alturas and Susanville; traffic of this nature must be transferred at Reno. Pickup and delivery service is provided, through contract draymen, at Susanville and Alturas. Agents are stationed at most of these points.

All of these points are not served with the same degree of frequency. From Reno to Alturas; and between Reno, Susanville and Westwood, in each direction, the service is available daily, Monday through Friday of each week. From Alturas to Reno, service is provided three times a week, on Mondays, Wednesdays and Fridays; it also is available on Tuesdays and Thursdays, if sufficient traffic is offered.

Details were supplied regarding the time consumed in transit between these points. Usually, four days are required for the movement between Westwood and Susanville, and Alturas, in either direction. The intermediate points of Ravendale, Termo, Madeline

(18) As stated, applicant transports for protestant merchandise shipments moving from Westwood, Susanville and Litchfield to Reno, where they are turned over to Southern Pacific for further handling.

(19) Agency stations are maintained at the principal points, viz.: Westwood, Susanville and Alturas; and at such smaller communities at Litchfield, Madeline and Likely. No agent is maintained at Termo nor at Ravendale.

(20) In May, 1946, the service from Reno to Susanville and Westwood was increased from three times a week to a daily service (except Saturdays and Sun ays). The service provided by applicant for protestant from Westwood and Susanville to Reno, described above, is available daily, Monday through Friday, of each week.

and Likely would be accorded the same service, with respect to
(21)
traffic moving to and from Susanville and Westwood.

Information was submitted regarding the volume of intra-
state less-carload traffic moving to and from points which protestant
(22)
serves. This, it was shown, is somewhat light.

Protestant called two shipper-witnesses. One, who conducts a general store at Standish, uses his own truck to haul supplies from Susanville, some 14 miles away, and would continue to do so. The other shipper operates a restaurant, soft drink establishment and bar at Likely, 20 miles south of Alturas. Supplies not purchased at Likely are obtained from dealers at Alturas and Susanville who use their own trucks to distribute their products. Neither ships to or from Feather River points. Both receive shipments moving over applicant's lines, and also by rail, which

(21) At Reno, freight destined to Alturas and Susanville is loaded into merchandise cars, which move to these points, respectively. Because of insufficient traffic, no such cars move from these points to Reno. Freight is peddled at main line points intermediate to Wendel and Alturas. The Alturas merchandise car is handled in a faster train than that which accommodates the intermediate main-line points.

(22) The volume of intrastate less-carload freight traffic received from, and forwarded to, the stations named below during June, 1949, was reported as follows:

<u>STATION.</u>	<u>RECEIVED</u> (pounds)	<u>FORWARDED</u> (pounds)
Susanville	79,900	17,600
Litchfield	15,400	5,200
Wendel	19,600	100
Ravendale	500	-----
Madeline	11,200	-----
Likely	5,500	100
Alturas	105,700	9,100
Total	237,800	32,100

(These tonnage figures do not include any traffic which had its origin or destination at points between Alturas and the California-Oregon state line.)

originate at Sacramento and more distant points. However, neither would use applicant's service locally.

The record, we believe, indicates the need for an adequate transportation service which would permit merchants and dealers at Susanville to market and distribute their products throughout this territory. Such a service, it appears, is not now available to them. Between Susanville and Alturas and intermediate points, protestant, Southern Pacific Company, offers a service which is slow and inadequate, insofar as it relates to the transportation of less-carload traffic--with which alone we are primarily concerned here. And between Susanville and Feather River points (extending from Greenville to Hallelujah Junction) the service afforded by the existing common carriers was also shown to be slow and inadequate.

Applicant, so the evidence discloses, would provide a service sufficient to meet the requirements of these shippers. For many years he has served some of these points as an intrastate carrier; he also has operated throughout the affected territory as an interstate carrier. He is qualified, both financially and by experience, to carry on the service which he seeks to establish.

Aside from Southern Pacific Company, the other carriers in the field have offered no objection to the application; in fact, none of them even entered an appearance. In this respect, their attitude differs markedly from that which they assumed when applicant previously sought a certificate to serve the same points. The decision in that matter (which was made a part of the present

record), indicates that there they appeared as protestants. Their (23)
failure to do so here, although notified of the hearing, entitles (24)
us to assume that they are not opposed to applicant's proposal.

The application, accordingly, will be granted.

Since applicant already possesses the right to serve some of the points, as a highway common carrier, for which operating authority is sought in the instant proceeding, these

(23) As we have said, the applicant herein requested authority, in Application No. 24775, to serve the same routes and points as those involved in the present proceeding. Except in minor particulars (described above), the certificate sought was denied by Decision No. 38128, rendered August 14, 1945 (45 CRC 799). That decision reveals that the application was protested by Southern Pacific Company and its affiliate Pacific Motor Trucking Company, Western Pacific Railroad Company, Railway Express Agency, Inc., Mt. Lassen Transit Co., Sacramento Freight Lines, Oregon-Nevada-California Fast Freight, Inc., and Pacific Southwest Railroad Association.

(24) Of those mentioned in footnote (23), supra, all were notified of the hearing in the present proceeding excepting Oregon-Nevada-California Fast Freight, Inc. and Pacific Southwest Railroad Association. However, Modoc Transport, successor in interest to Oregon-Nevada-California Fast Freight, Inc., received such notice. Moreover, Valley Motor Lines, Inc. and Bekins Van Lines, Inc., also were notified of the hearing. None of the three carriers last mentioned, as well as none of those named above, appeared or objected to the application.

aspects of the application may be disregarded. Such is the situation as to applicant's proposal to operate between Purdy and a point on U. S. Highway 395 at the California-Nevada border near Doyle (application, par. I (c)); and also, with respect to the proposal to serve Herlong as an off-route point (application, par. I (d)). The Commission's records disclose that, in each instance, applicant's existing certificates now permit the performance of such operations⁽²⁵⁾. Consequently, the issuance of any further authorization to provide the service would be superfluous and is, therefore, unnecessary.

As stated above, the executrix of the estate of the late J. S. Ginocchio will be substituted for him as the applicant in this proceeding. Subsequently, authority may be sought, by a supplemental application to be filed in this proceeding, for further disposition of this certificate, in conformity with the provisions of the decree of final distribution which may be rendered by the court in the pending probate proceeding.

Carrie E. Ginocchio, as Executrix of the estate of J. S. Ginocchio, deceased, is hereby placed upon notice that operative rights, as such, do not constitute a class of property which may

(25) Decision No. 20620, referred to above, authorized applicant, J. S. Ginocchio, to acquire an operative right extending from Westwood through Susanville to Doyle, and "... between Doyle and the California-Nevada line to Reno" As we read this decision it recognized and established applicant's right to operate over the route which may now be designated as that segment of U. S. Highway 395 extending from Doyle to the California-Nevada state line near Hallelujah Junction. Decision No. 35200, also mentioned above, authorized applicant to operate between Bird Flat School House, on U. S. Highway 395, and the Army Ordnance Depot at Honey Lake, currently designated as Herlong. Furthermore, the record in the instant proceeding discloses that Herlong now may be considered as an intermediate point along the route over which applicant conducts his operations, via Doyle, Milford and Johnstonville.

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

Application as above-entitled having been filed, a public hearing having been held thereon, the matter having been duly submitted, the Commission being fully advised in the premises and hereby finding that public convenience and necessity so require,

IT IS ORDERED, as follows:

(1) That Carrie E. Ginocchio, as Executrix of the estate of J. S. Ginocchio, deceased, be and she is hereby substituted as the applicant herein in the place and stead of J. S. Ginocchio, the original applicant in this proceeding.

(2) That a certificate of public convenience and necessity be, and it hereby is, granted to Carrie E. Ginocchio, as Executrix of the estate of J. S. Ginocchio, deceased, authorizing the establishment and operation of a service as a highway common carrier (as defined by Section 2-3/4 of the Public Utilities Act), for the transportation of general commodities between the following points, viz.:

(a) Between Chester and Hallelujah Junction, and intermediate points (including, among others, Greenville, Crescent Mills, Quincy, Portola and Vinton).

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- (b) Between Westwood and Junction point of unnumbered highway and State Highway 89, situated east of Lake Almanor and near Big Meadows Dam.
 - (c) Between Johnstonville and Alturas, and intermediate points (including, among others, Standish, Litchfield, Ravendale, Termo, Madeline and Likely).
 - (d) To, from and between any and all points situated within a distance of one mile laterally of the routes traversed in providing the service hereinabove authorized in sub-paragraphs (a), (b) and (c).

Said certificate is granted subject to the following limitation:

Applicant shall not engage in the transportation of petroleum products in bulk, uncrated household goods, nor of livestock.

(3) That said certificate may be transferred by said executrix to the distributee or distributees designated in the decree of final distribution which hereafter may be rendered in the probate proceeding described above, and it may be acquired by said distributee or distributees from said executrix, pursuant to an appropriate supplemental application to be filed herein.

(4) That in providing service pursuant to the certificate herein granted, applicant 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 after the effective date hereof.

- (b) Within 60 days after the effective date hereof and on not less than 5 days' notice to the Commission and the public, applicant shall establish the service herein authorized and comply with the provisions of General Order No. 30 and Part IV of General Order No. 93-A, by filing in triplicate and concurrently making effective, appropriate tariffs and time tables.
- (c) Subject to the authority of this Commission to change or modify them by further order, applicant shall conduct operations pursuant to the certificate herein granted over and along the following routes:

Between Chester and Hallelujah Junction: via State Highway 36, from Chester to junction with State Highway 89; thence via State Highway 89 to junction with State Highway 24; thence via State Highway 24 to Hallelujah Junction.

From Westwood, via unnumbered highway along east side of Lake Almanor, to junction with State Highway 89, situated near Big Meadows Dam.

From Johnstonville to Alturas, via U. S. Highway 395.

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

Dated at San Francisco California, this 11th day of April, 1950.

R. Z. [Signature]
Justice F. [Signature]
[Signature]
[Signature]
[Signature]
Commissioners