

Decision No. 13321.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

- 0 0 -

In the Matter of the Application of
OAKLAND-SAN JOSE TRANSPORTATION
COMPANY, operating between Oakland
and San Jose, and Merchants Express and
Draying Company, operating between
San Francisco and Oakland, Berkeley,
Alameda and other trans-bay points,
for a certificate of public convenience
and necessity to establish through
route and joint rates between San
Francisco and San Jose and intermediate
points via Oakland.

In the Matter of the Application of the
CONSOLIDATED MOTOR FREIGHT LINES, Inc.,
and Merchants Express and Draying Company,
for a certificate of public convenience
and necessity to establish and continue
in operation joint freight rates between
San Francisco and Richmond, San Lorenzo,
San Leandro and Hayward via Oakland.

In the Matter of the Application of the Consolidated Motor Freight Lines, Inc. for a certificate of public convenience and necessity to establish and continue in operation joint freight rates between Richmond and intermediate points on the one hand and San Lorenzo, San Leandro and Hayward and intermediate points on the other, routed via Oakland.

Gwyn H. Baker and E. A. Loveland for Applicants.

L. N. Bradshaw for Southern Pacific Company,
Protestants.

Walter H. Robinson and C.S.McLenegan for
Pioneer-Gibson Exoress, Protestant.

C. K. Harpor for the Highway Transport Company, Protestant.

Theodore Harte for Western Pacific Railroad Company. Protestant.

B. Levy and E. T. Lucey for ~~Stahison~~ Topeka
and Santa Fe Ry Co. Protestant.

BY THE COMMISSION.

O P I N I O N

The above entitled applications came on regularly for hearing before Examiner Eddy on July 21st and August 21st, 1922, at which time, by stipulation, they were consolidated for hearing and decision.

Application No. 7987 is a joint application filed on behalf of A. C. Woodward, doing business under the name of Oakland-San Jose Transportation Company and Merchants Express and Draying Company, in which they apply for an order of the Railroad Commission authorizing the establishment of through route and joint rates between San Francisco, San Jose and intermediate points.

The Merchants Express and Draying Company operates motor freight service between San Francisco and East Bay points through operation in good faith as of May 1st, 1917; and A. C. Woodward operates motor freight service between Oakland, San Jose and certain intermediate points under certificate obtained from the Railroad Commission in accordance with Section 5 of Chapter 213, Statutes of 1917, as amended. Through rates proposed are as more specifically set forth in Exhibit "A" accompanying application herein. Two sets of through rates are proposed, one from San Francisco to all points beyond Oakland to and including Irvington, the other set between San Francisco and San Jose and points south of Irvington.

Application No. 7996 is a joint application filed on behalf of Consolidated Motor Freight Lines, Inc., and Merchants Express and Drayage Company in which they petition for an order authorizing the establishment of through route and joint rates between San Francisco, Hayward and intermediate points and San Francisco and Richmond and intermediate points.

The Merchants Express and Draying Company operate as more specifically hereinabove set forth. The Consolidated Motor Freight Lines, Inc., operating motor freight service between Oakland, Hayward and intermediate points and Oakland, Richmond and intermediate points, their operative rights having been acquired by transfer of two certificates, one between Oakland and Hayward, the other between Oakland and Richmond both created under the provisions of Section 5 of Chapter 213, Statutes of 1917, through operation in good faith as of May 1st, 1917.

Application No. 8077 is an application filed on behalf of Consolidated Motor Freight Lines, Inc. for permission to establish through route and joint rates between all points served by it under two certificates acquired by transfer as hereinabove mentioned, namely, Richmond, Oakland and Oakland, Hayward and intermediate points.

Some question has arisen in this proceeding as to the jurisdiction of the Railroad Commission over the establishment of through route and joint rates by connecting carriers operating under the provisions of the Automobile Stage and Truck Transportation Act, Chapter 213, Statutes of 1917, and amendments thereto. This question, we believe, has been very fully determined by the Commission in Western Motor Transport Company, Decision No. 9892, in which the Commission held in effect that an individual or corporation securing two connecting certificates could not lawfully operate a through service over both of said two certificates unless they had first secured an additional certificate from the Commission declaring that public convenience and necessity require such through service nor could two connecting lines establish joint fares and through route and render a service different or greater than that authorized under their existing operative rights unless

they had first secured by formal order permission so to do. The principles set forth therein were affirmed by the Supreme Court of this State in Motor Transit Company vs. Railroad Commission, S.W. 10099 64 Cal. Dec. 278.

We believe that there is no necessity for further discussion as to the Commission's jurisdiction in these proceedings and accordingly, will proceed to a determination of the three applications upon the evidence introduced.

With reference to the proposed through rates between San Francisco, San Jose and intermediate points, via Oakland: Freight moving over this route would have to be picked up in the City of San Francisco, the trucks moving to Oakland via ferry, transferred from the Merchants line to the Woodward line at one or the other of the two lines' depots in the City of Oakland and the freight then transported to point of destination.

At the present time there is operated directly between San Francisco and San Jose via the Peninsula road, the Pioneer-Gibson Express, Highway Transport Company, Peninsula Parcel Delivery, Southern Pacific Company and the American Railway Express, all of which render a direct service between the termini of San Francisco and San Jose without the necessity of transfer of commodities en route.

There is nothing in the record whatsoever which would incline this Commission to the belief that the service proposed by applicants herein between the termini of San Francisco and San Jose, via Oakland would afford to the shipping public a service in any manner more desirable either as to time or rates than that already given by the existing transportation companies hereinabove mentioned. Particularly in view of the fact that the natural avenue of freight moving between such points is following what is known as the Peninsula road and

not by ferry to Oakland there to be transferred to another truck for movement from Oakland to San Jose. We do however, find that the evidence does justify the establishment of joint rates and through route as proposed by applicant between San Francisco and Irvington and intermediate points. The order will so provide.

With reference to Application No. 7996: It is contended in this proceeding that joint rates and through route have been established by applicant Merchants Express and Draying Company prior to May 1, 1917. A search of the tariff filings of such carriers does not bear out this contention. C.R.C. No. 1 of the Merchants Express and Draying Company, issued February 1, 1918, effective February 1st, 1918, names points as follows: San Francisco, Oakland, Berkeley, Alameda, Piedmont, Emeryville, Fruitvale, Melrose. There is no mention in such tariff of any joint rates between points east of Melrose. It was not until December 23, 1921, that the Merchants Express and Draying Company filed their C.R.C. No. 2, cancelling No. 1, dated December 23, 1921, effective December 29, 1921, that such rates were quoted, the Merchants Express and Draying Company publishing local and joint rates in connection with the Consolidated Motor Freight Lines quoting rates between San Francisco and San Leandro, San Lorenzo, Hayward and San Francisco and Richmond. No formal authority of the Railroad Commission, however, was obtained authorizing the filing or publication of such joint rates.

C. R. C. No. 1 of the Williams Motor Express Company, predecessor in interest to Consolidated Motor Freight Lines, Inc., applicant in this proceeding, quoted local rates between Oakland, Fruitvale, Melrose, San Leandro and Hayward and also joint rates between the same points as hereinabove named and San Francisco, Berkeley, Alameda and Piedmont in

connection with Santa Fe Express Company, F 2 No. 1. No mention in such tariff, however, is made of any joint rates with the Merchants Express and Draying Company, nor as hereinabove stated does the original tariff filing of the Merchants Company quote any such joint rates.

C. R. C. No. 1 of the Richmond Motor Express Company issued and effective February 1, 1918, quotes joint rates between Alameda, Emeryville, Oakland and Richmond and San Francisco, Alameda, Piedmont, Melrose and San Leandro in connection with B-Line Transfer F. 2 No. 1, Kellogg Express Company F. 2 No. 1 and Merchants Express and Draying Company F 2 No. 2. As will be noted the tariffs of the three companies above mentioned were not filed with the Commission until sometime in 1918; none of such companies filed tariffs quoting freight rates effective as of May 1st, 1917, nor is there sufficient proof in the record in this proceeding which would justify the Commission in holding that such companies had established and were operating under through routes and joint rates in good faith as of May 1st, 1917. The evidence, in this proceeding, however, does justify the Commission in finding that public convenience and necessity require the establishment of joint rates and through routes as proposed in Application No. 7996, that is between San Francisco on the one hand and Hayward and intermediate points to Oakland and between San Francisco on the one hand and Richmond and intermediate points to Oakland on the other. The order will so provide.

Application No. 8077 is an application of the Consolidated Motor Freight Lines, Inc., for an order authorizing the establishment of joint rates, and through routes between its Richmond-Oakland line on the one hand and its Hayward-Oakland line on the other. Both the Richmond and Hayward territory are directly contributory and only a short distance

from the City of Oakland. It is a natural route for truck freight and the evidence clearly shows that public convenience and necessity warrant the establishment of joint rates over this territory.

In authorizing, however, the establishment of joint rates and through route between the Merchants Express Company operating between San Francisco and Oakland and A. C. Woodward operating between Oakland and Irvington and between the Merchants Express and Draying Company and the Consolidated Motor Freight Lines, Inc., the latter operating between Oakland and Richmond and Oakland and Hayward, it will be distinctly understood that the Commission in no manner whatsoever authorizes either or any of said companies to operate their equipment over the territory covered by certificates of one or any or all of the other companies.

ORDER

Public hearings having been held in the above entitled proceedings, evidence introduced, the matters submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that A. C. Woodward, doing business under the name of Oakland-San Jose Transportation Company, and Merchants Express and Draying Company, a corporation, be and they hereby are authorized to file within a period of not to exceed ten (10) days from date hereof, effective within ten (10) days after filing, joint rates as set forth by Exhibit "A" attached to their application herein quoting class rates and minimum charges between San Francisco and all points beyond Oakland to and including Irvington.

IT IS HEREBY FURTHER ORDERED that Application No. 7987 be, and it hereby is in all other respects denied.

IT IS HEREBY FURTHER ORDERED that the Consolidated Motor Freight Line, Inc. Merchants Express and Draying Company, a corporation, be, and they hereby are authorized to establish and continue in effect joint rates and through route between San Francisco and Oakland on the one hand and Richmond and intermediate points to Oakland on the other and San Francisco and Oakland on the one hand and Hayward and intermediate points to Oakland on the other as set forth in tariffs now on file with the Railroad Commission.

IT IS HEREBY FURTHER ORDERED that Consolidated Motor Freight Line, Inc. be, and they hereby are authorized to establish and continue in effect joint rates and through route as at the present time set forth in tariffs filed by the Consolidated Motor Freight Lines, Inc. quoting rates between Richmond and Oakland on the one hand and Hayward and Oakland on the other.

Dated at San Francisco, California, this ²⁵~~26~~ day of March, 1924.

C. A. Seavey
H. B. Burdige
James Martin
J. L. Whittney
Commissioners