

Decision No. 19119

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)	
CALIFORNIA TRANSIT CO., a corpora-)	
tion, for a certificate of public)	
convenience and necessity for the)	
transportation of express matter be-)	Application No. 13666.
tween Oakland, Vallejo, Napa,)	
Martinez, and Sacramento, and inter-)	
mediate points.)	

Earl A. Bagby, for Applicant.

George Baker and Edward Stern, for
American Ry. Express Co., Protestant.

BY THE COMMISSION:

O P I N I O N

By its application, California Transit Company, a corporation, seeks to acquire a certificate of public convenience and necessity for the transportation of express on its operative rights between Oakland and Vallejo, Martinez, Napa and Sacramento and intermediate points, and to consolidate such rights to transport express with the operative rights of the applicant on all other parts of its said consolidated system and in the establishment thereof to apply the rates, rules and regulations governing the transportation of express that are now effective on the general system of the applicant.

Public hearings on this application were held before Examiner Gannon at San Francisco, Vacaville and Sacramento, the matter was duly submitted and is now ready for decision.

It is alleged by applicant that the operative rights over which express rights are now sought were obtained by this applicant by purchase from Western Motor Transport Company, pursuant to Decision No. 10073 on Application No. 7340, dated February 8, 1922, and that at the time said operative rights were so acquired said Western Motor Transport Company was conducting an express transportation business in connection therewith; that said decision of this Commission, granting to said Western Motor Transport Company the right to sell, and to this applicant the right to purchase, all of the operative rights of said Western Motor Transport Company, among other things, provided that this applicant should immediately file tariff of rates and time schedules or adopt as its own tariffs and time schedules theretofore filed with the Railroad Commission by applicant Western Motor Transport Company, the same to be identical with those filed by applicant, Western Motor Transport Company; that this applicant complied with such instruction and adopted the express rates of said Western Motor Transport Company and the operations contemplated thereby and has since continued to transport express over said operative rights in accordance therewith.

It was held by this Commission in Decision No. 18107 on Application No. 11005 rendered March 28, 1927, that California Transit Company does not possess the right to transport express or property over or along the following routes, to-wit:

- a. Between Oakland and Martinez and intermediate points;
- b. Between Oakland and Napa and intermediate points;
- c. Between Oakland and Vallejo and intermediate points;
- d. Between Vallejo and Sacramento and intermediate points.

Moreover, it was expressly set forth in the order following the

findings in Decision No. 19107 that no right to transport express over or along the above described routes was therein granted. In accordance with the findings and subsequent order of this Commission, applicant discontinued its express service over said route on or about April 5, 1927, and at the same time filed the application which is here being considered.

Applicant alleges that the cessation of express service over said operative route has resulted in great inconvenience to the public in that there exists no other similar service which may be substituted in lieu thereof.

It is further urged by applicant that public convenience and necessity require that such operative right for the transportation of express be consolidated with other rights for the transportation of express now owned by applicant in the same manner and to the same extent that the rights for the transportation of passengers are consolidated, especially since such transportation of express is incidental to the transportation of passengers, is transported on the same stages with passengers, and may only be transferred from one stage to another at a junction point at such times and places as the passengers themselves are transferred.

The granting of the application in its entirety was protested by American Railway Express Company. During the progress of the hearing at Sacramento, Beverly Gibson, representing River Auto Stages, entered an appearance and protested the application in so far as it might affect the operation of his line between Sacramento and Davis.

In support of its contention as to the necessity for resumption of this service, applicant called a large number of witnesses representing both shippers and retail dealers. The shippers so testifying came chiefly from Oakland and Richmond and in the main represented dealers in automobile parts and accessories,

wholesale florists, kodak finishers and similar commodities, the supplying of which might well be regarded as of an emergency character.

A firm in Berkeley, dealing in biological products, serums and vaccines, testifying through its vice-president, declared that all their smaller and emergency shipments would go by stage, which service they regarded as more satisfactory than rail service. They served practically all towns embraced in the northern division of California Transit Company and have always found stage service entirely adequate.

The testimony of witnesses representing dealers in automobile parts and accessories was substantially the same in each instance. They had all used the service of the applicant, had found it satisfactory, had been greatly inconvenienced by its discontinuance, and urged its restoration. It appears from the testimony that the public demands immediate service in the supplying of auto parts, especially in case of break-downs, which service can most adequately be supplied by the stages. One witness testified that he had as many as five to seven urgent calls per day that demanded instant attention. The testimony of another witness was to the effect that one of his customers had ordered a gear for an automobile, on which such part had been broken, and that while with stage service the part would have been at his garage in an hour, in this instance he found it necessary to close his place of business and himself drive to Oakland and get the part. Hourly service is demanded and the over-night service of the express company does not meet the requirements.

The circulation managers of certain San Francisco, Oakland and Richmond daily newspapers testified as to the need for stage service in the distribution of their publications to the various points involved in this application. The stages depart

at special hours when no trains are available, thus enabling the publishers to get their papers to the several towns at a salable time.

A wholesale florist of Oakland testified that the discontinuance of stage service had practically wiped out all of his business in a certain section of the northern division. This witness testified that formerly he had a business in Napa aggregating \$1400. a month and since the stage service was discontinued on April 5th he has shipped only \$14. worth of flowers to that point. One of his customers, residing in Suisun, explained to the witness that in the absence of train, as well as stage service, she was compelled to have her flower orders sent from San Francisco by boat and then drive 18 miles to get them.

Adverting now to the testimony of retail dealers, we find the record replete with the evidence of individuals and firms relying upon a prompt and speedy delivery service from the bay region. Some 36 witnesses were produced at the Vacaville hearing in support of the application, such witnesses coming from Vacaville, Vallejo, San Francisco, Dixon and Napa. By far the greater number of such witnesses were engaged in the garage and automobile accessories business and their testimony in substance confirmed the statements made by wholesalers whose testimony has been above referred to. It was testified to by an automobile supply dealer of Vacaville that it frequently occurs that customers have been obliged to remain in town over night, whereas with the former stage service he might have telephoned to Sacramento and obtained the extra parts by stage, thus permitting the customer to be on his way before evening. Another witness, engaged in the same activity in Vallejo, testified that he has lost fifty per cent of his business in the territory affected by the cessation of stage service. Unless parcel post shipments are in the postoffice by 2:00 p. m. they go to San

Francisco and are brought back via Oakland and finally delivered to the postoffice in the particular town to which destined, this procedure usually requiring one and a half days.

Several fruit growers and shippers testified as to the need for continued stage service over the route proposed in this application. The service is required principally for the supplying of extra parts for tractors and automobiles, the tractors being run day and night during certain seasons. One witness testified that it meant a loss of from \$75. to \$100. for every twenty-four hours that his tractor was laid up for repairs.

A druggist of Vacaville, under crossexamination by protestant American Railway Express Company, testified that most of his shipments were emergency in their nature and that so far as he was concerned the express office at Vacaville might well be discontinued, provided stage service were resumed.

Of the remaining many witnesses who testified at the Vacaville hearing there appeared to be a consensus of opinion as to the necessity for a restoration of this stage service. All had used the stage service and had found it to be entirely satisfactory. Neither parcel post, nor rail express, nor a combination of both, are adequate to meet the present demand for prompt service and emergency shipments.

Applicant produced some eight witnesses at the Sacramento hearing. Their testimony in the main was a duplication of what had gone before. A representative of one of the largest automobile accessories establishments of Sacramento testified that the business of his firm had fallen off from \$1000. to \$1500. per month in the northern division since the discontinuance of stage service. He stated that they had practically lost their business in Vallejo, Napa and Cordelia and other points because

they cannot render service by stage.

The manager of the Traffic Department of the Sacramento Chamber of Commerce, representing, as he stated, the entire Chamber membership of 1500, testified that it was desirable and necessary to have a service that may be completed in at least a day's time.

Protestant American Railway Express Company called eight witnesses in support of its protest and also offered the testimony of three employees. Five of these witnesses are in business in San Francisco and three in Oakland. Protestant produced no witnesses from any other point in the northern division.

The traffic manager of the Emporium, who also represented the Central California Traffic Association with its membership of thirty-four firms, testified that in so far as his clients were concerned the present service is adequate, though he did not oppose the application. The traffic manager of the Owl Drug Company testified similarly, though he would not say there was no need for additional service. His establishment in San Francisco had the benefit of a frequent daily pick-up service, supplemented by special wagons of the express company when required.

A retail florist of Oakland testified that he used the service of American Railway Express Company and found it satisfactory; in fact, was of the opinion that flowers could be more satisfactorily shipped by rail express than by stage. That was also the substance of testimony given by a San Francisco florist. A dealer in automobile tires, operating in Oakland, testified that the present express service was satisfactory and that he could not recall any shipments that required instant delivery.

The testimony of protestant's employees went almost exclusively into the matter of service and rates now rendered in the territory here involved and went into these matters in con-

siderable detail. The usual schedules of rate comparisons and number of available services were introduced as exhibits by both parties to the hearing.

We have given careful consideration to the evidence and exhibits in this proceeding. Applicant offers what may be termed a specialized service for the handling of small packages, especially serving the needs of shippers and users of automobile parts and accessories. In fact, such shipments, averaging approximately 25 pounds each, would probably constitute a large percentage of the total shipments. The testimony of witnesses does not disclose any demand for a pick-up and delivery service such as is offered by the chief protestant herein. On the contrary, several witnesses testified that they would prefer to deliver and receive their shipments at the stage depot as an additional assurance of prompt service. Unquestionably there exists a very definite and imperative demand for the expeditious handling of small packages, particularly shipments of automobile parts. The discontinuance of the service herein sought to be restored undoubtedly created a distinct hardship among a large number of merchants operating in this territory and who had come to rely upon quick service to their customers as a stimulant to trade. The record contains the testimony of several witnesses who were forced to the necessity of using their own cars to effect delivery of shipments as soon as the stage service was discontinued. It would be fair to say that many hundreds of shippers were affected adversely by the order of discontinuance. Applicant introduced in evidence a mass of petitions, telegrams and letters, all purporting to urge a prompt restoration of the service prayed for.

Protestant American Railway Express Company offered testimony and exhibits intended to substantiate its protest, but such evidence did not in the main effect the problem herein

involved. Undoubtedly said protestant offers an excellent pick-up and delivery service throughout its system, but the question here involved is primarily that of a local service that demands peculiarly prompt collection and delivery.

There was no opposition to the proposed consolidation of the operative rights herein sought with the operative rights of applicant to transport express on all other parts of its consolidated system. The benefits and economies of unification and the ability to render through service from point to point are obvious and should in this instance be granted.

Upon full consideration of all the evidence, we are of the opinion, and hereby find as a fact, that public convenience and necessity require the transportation of express packages not exceeding a weight of 100 pounds each by California Transit Company on its stages over its present operative rights between Oakland and Vallejo, Napa, Martinez and Sacramento and all intermediate points, as such rights may be finally determined by the findings of the Commission in its rehearing of Application No. 11005.

O R D E R

A public hearing having been held in the above entitled application, the matter having been duly submitted and the Commission being now fully advised, and basing its order on the findings of fact which appear in the preceding opinion,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the transportation of express packages not exceeding a weight of 100 pounds each by California Transit Company on its stages over its present operative rights between Oakland and Vallejo, Oakland and

Napa, Oakland and Martinez, and Vallejo and Sacramento, and all other intermediate points, as such rights may be finally determined by the findings of the Commission in its rehearing of Application No. 11005.

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA also hereby declares that public convenience and necessity require the consolidation of such rights to transport express with the operative rights of the applicant to transport express on all other parts of its consolidated system, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be, and the same is hereby granted, subject to the conditions as hereinafter set forth:

1. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed ten (10) days from date hereof.
2. Applicant shall file, in duplicate, within a period of not to exceed twenty (20) days from the date hereof, tariff of rates and time schedules, such tariffs of rates and time schedules to be identical with those attached to the application herein, or rates and time schedules satisfactory to the Railroad Commission, and shall commence operation of said service within a period of not to exceed sixty (60) days from the date hereof.
3. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.
4. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

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

Dated at San Francisco, California, this 15th day of ~~November~~ ^{December}, 1927.

Ernesto
Chavez
Leon White
John D. Smith
M. A. Linn
Commissioners.