

Decision No. 21683

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
 SOUTHERN PACIFIC MOTOR TRANSPORT
 COMPANY for a certificate of public
 convenience and necessity to operate
 motor vehicles for the transporta-
 tion of express matter for Railway
 Express Agency, Inc., or its success-
 ors, between Bakersfield, Fellows,
 Taft, Maricopa and intermediate
 points.

Application No. 15467.

H. W. Hobbs for Applicant.

Edward Stern for Railway Express Agency, Inc.,
interested party, favoring the
application.

Gwyn E. Baker for Besone Motor Express, Pro-
testant, and Home Stage Line,
Boyd Stage Company, and Kern
County Transportation Corpora-
tion, Protestants.

Siemon & Garber,
by Alfred Siemon, for Home Stage Line, Boyd
Stage Company, and Kern County
Transportation Corporation,
Protestants.

BY THE COMMISSION:

O P I N I O N

Southern Pacific Motor Transport Company has petitioned the Railroad Commission for an order declaring that public convenience and necessity require the operation by it of an auto truck service as a common carrier for the transportation of property, to-wit: express of Railway Express Agency, Inc., or its successors, between Bakersfield and Maricopa and between Bakersfield and Fellows serving the intermediate points of Panama, Old River, Western

Water Co., Ford City and Taft, at which the Railway Express Agency, Inc., or its successors, may now have established or may hereafter establish offices for express matter.

Public hearings on this application were conducted by Examiner Satterwhite at Bakersfield and Taft, the matter was submitted and is now ready for decision.

Applicant proposes to charge the same express rates now charged by Railway Express Agency, Inc. or its successors, between its offices or stations on said routes and between said stations and elsewhere in the territory served by the Railway Express Agency, or its successors, both interstate and intrastate; and the limitations or conditions upon said transportation shall be those set forth in the classification and tariffs of Railway Express Agency, Inc., or its successors, on file with the Railroad Commission of the State of California. The proposed time schedule and routes for the proposed express service are shown on Exhibit "A" attached to said application and made a part thereof and a description of the equipment is shown in Exhibit "B". A map showing the territory to be served is also attached to the application and marked Exhibit "C".

Kern County Transportation Corporation, Boyd Stage Company, Home Stage Line and Besone Motor Express protested the granting of said application.

Many witnesses consisting of merchants, business men and representatives from several of the large retail and wholesale business houses at Bakersfield, Taft and Maricopa, testified to the need of the proposed service.

The evidence shows that a very substantial volume of express matter is transported by the Railway Express Agency between the points proposed to be served. A large part of this express matter consists of emergency shipments and perishable products which require transportation with utmost despatch. The Sunset Railway train service

over which the Railway Express Agency ordinarily operates is not so arranged as to give the public the service which the express business of the Railway Agency requires between the points proposed to be served. At the present time there is one mixed train operating over the Sunset Railway leaving Bakersfield about 5:00 a.m. for Taft and Fellows; returning to Taft it then proceeds to Maricopa and finally returns to Bakersfield at 7:00 p.m. the same day. It appears that the volume of freight work to be done on this mixed train service fluctuates from day to day, resulting in much irregularity, both in its departure from and arrival at Bakersfield and Taft and other points. This lack of regularity has at times delayed various express shipments for 24 hours. Applicant proposes, in response to the public demand, to operate 3 schedules daily, except Sundays, in each direction, leaving Bakersfield at 4:45 a.m., 8:20 a.m. and 10:30 a.m. and returning at 8:20 a.m., 1:30 p.m. and 7:30 p.m. The proposed service will start at the Southern Pacific station at Bakersfield; thence to the Railway Express Agency depot at the Santa Fe Railway station, and then along the highway by way of Panama, Ford City and Taft; thence to Railway Express Agency office at Fellows located in the Sunset Railway station. The return trip will be made directly to Taft over the same route to the Southern Pacific station at Bakersfield.

It was shown that a great part of the express matter, both interstate and intrastate, proposed to be handled is received from or destined to points in California, particularly San Francisco, Los Angeles, and Fresno. Applicant's proposed time schedules are so arranged, as shown in applicant's exhibit No. 1, that a coordinated service with the Southern Pacific Company and The A.T. & S.F. Railway Company will be furnished for through shipments. The express matter is proposed to be handled under a contract with

applicant by which the Railway Express Agency will appear in all dealings with the public, the Southern Pacific Motor Transport Company being merely the carrier.

The protestants offered in evidence their respective rate and time schedules now on file with the Railroad Commission and also some oral testimony to the effect that the existing stage and express truck service is adequate to meet all public demands.

The record shows that the Kern County Transportation Corporation and Boyd Stage Company operate a joint time schedule between Bakersfield and Taft and intermediate points, alternating every two weeks with daily trips between their joint stage terminals. At Taft they make connections with the Home Stage Line, protestant, which operates a passenger and express service only between Taft, Fellows and Maricopa. The express business enjoyed by these stage lines is more or less secondary to their passenger business; and all their express matter, together with baggage, is carried in racks on the rear of the stages. It seldom, if ever, occurs that any truck equipment is used to take care of the express business moving over these stage lines, it being their practice to load any excess express matter on the passenger seats, if vacant or occupied in part by passengers.

The record indicates that there are express shipments of various kinds commonly and usually transported by the Railway Express Agency which the protesting stage lines do not handle or do not care to handle by reason of their bulk, great weight, dangerous, and other characteristics. There is nothing in the record to show that the express matter or traffic moving by rail from the various points mentioned above and proposed to be handled by applicant has ever to any great extent been transported by any of the protesting stage lines.

The Besone Motor Express, protestant, operates one schedule daily out of Bakersfield to Taft leaving at 4:00 a.m. and returning from Taft at 3:00 p.m.

The evidence shows that this express truck service has been fairly satisfactory to many of the merchants of Bakersfield and Taft, but at no time has its operations been at all coordinated with the passenger rail service in order to expedite with more frequency the through express traffic transported by the rail carriers and which applicant now proposes to transport between the communities sought to be served.

All of the witnesses appearing for applicant, many of whom have used the Besone Motor Express, testified that the service proposed by applicant would be a convenience as well as a necessary service and that they would patronize that service in preference to the service of the protestants. The testimony further shows that the express traffic now proposed to be handled by applicant is largely the same business which has heretofore been transported by the rail service and particularly during the last few months by the truck service of one E. V. Hale under a private contract with the Railway Express Agency, Inc.

After a careful consideration of all the evidence in this proceeding, we are of the opinion that the application should be granted.

Southern Pacific Motor Transport Company is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. 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

Public hearings having been held in the above entitled proceeding, the matter having been submitted and the Commission being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the operation by Southern Pacific Motor Transport Company, a corporation, of an auto truck service as a common carrier for the transportation of property, to-wit: express of Railway Express Agency, Inc., or its successors, between Bakersfield and Maricopa and between Bakersfield and Fellows serving the intermediate points of Panama, Old River, Western Water Co., Ford City and Taft, or other intermediate points, at which the Railway Express Agency, Inc., or its successors may hereafter establish offices for express matter.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be and the same is hereby granted to the Southern Pacific Motor Transport Company, subject to the following conditions:

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 17th day
of October, 1929.

Thomas G. Smith
C. J. James
James D. H.
Leon Whitell
W. J. Lee
Commissioners.