

Decision No. 23949

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of  
 GEORGE G. HARM and HAROLD B. FRASHER,  
 doing business under the firm name  
 and style of Valley Motor Lines, for  
 a certificate of public convenience and  
 necessity to operate an auto truck ser-  
 vice, as a common carrier of property,  
 for compensation, over the public high-  
 ways between Oakland, Alameda, Berkeley  
 and Emeryville, on the one hand, and  
 Manteca, Fresno and intermediate points  
 on the other; also from San Francisco  
 to points north of Fresno, to and in-  
 cluding Manteca, California.

ORIGINAL

Application No. 16176.

Sanborn, Roehl, Smith & Brookman, by A. B. Roehl,  
 for Applicant.

William F. Brooks for The Atchison, Topeka and  
 Santa Fe Railway Company, Protestant.

W. S. Johnson for Southern Pacific Company, Protestant.

A. S. Hutchison, L. N. Bradshaw and G. E. Walk for  
 Western Pacific R. R. Co., Tidewater Southern Rail-  
 way Company, and Western Pacific California  
 Railroad Company, Protestants.

Edward Stern for Railway Express Agency, Inc., Protestant.

Hal M. Remington for San Francisco Chamber of Commerce,  
 Interested Party.

W. G. Stone for Sacramento Wholesalers and Manufacturers  
 Association, Interested Party.

L. B. Young and W. S. Johnson for Pacific Motor Transport  
 Company, Protestant.

Edmund G. Wilcox for Oakland Chamber of Commerce.

BY THE COMMISSION:

O P I N I O N

Valley Motor Lines, Inc., properly and duly substituted  
 as the sole party applicant in this proceeding, 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 between San Francisco, on the one hand, and the territory between Manteca and Fresno, including Manteca, on the other hand, serving locally Manteca, Ripon, Salida, Modesto, Ceres, Keyes, Turlock, Delhi, Livingston, Atwater, Merced, Chowchilla, Berenda, Madera, Herndon and all intermediate points; also between Oakland, Alameda, Berkeley, Emeryville and San Leandro, on the one hand, and the territory between Manteca, and Fresno on the other hand, both inclusive, serving locally Manteca, Ripon, Salida, Modesto, Ceres, Keyes, Turlock, Delhi, Livingston, Atwater, Merced, Chowchilla, Berenda, Madera, Herndon and all intermediate points.

Public hearings on this application were conducted by Examiner Satterwhite at San Francisco, Oakland, Fresno, Modesto and Merced, the matter was submitted and is now ready for decision.

Applicant proposes to charge rates and to operate on a time schedule in accordance with amended Exhibit A and amended Exhibit B attached to said application. Said rates will be subject to the classification, rules and regulations contained in Monroe's Freight Classification No. 3 C.R.C.No.5 on file with this Commission.

Applicant proposes to receive freight at a central depot in San Francisco and Oakland respectively, from which points trucks will depart daily except Sunday at 7:00 p.m. for points north of Fresno and at 6:00 p.m. for Fresno, and to maintain the operating schedule as set forth in said Exhibit B. The service of applicant will include store door deliveries at all points in the San Joaquin Valley served by

applicant's line, and a pick-up service within the limits set forth in the proposed tariff attached to said Exhibit A. Applicant proposes to operate in said service eight six-wheel trucks and either trailers equipped with pneumatic tires; said trucks and trailers each having a carrying capacity of nine tons. Applicant proposes to add such additional equipment from time to time as the needs of the traffic may require.

Southern Pacific Company, Pacific Motor Transport Company, The Atchison, Topeka & Santa Fe Railway Company, Railway Express Agency, Inc., and the Western Pacific Company protested the granting of said application.

Valley Motor Lines, Inc. now operates an authorized through truck service between San Francisco and Fresno, and by the acquisition during the course of these proceedings of certain truck services between Stockton and Merced and between Fresno and Madera, now operates locally in all the territory in the San Joaquin Valley covered by the application herein, save and except a gap of 35 miles between Merced and Madera, which gap is proposed to be covered by the extensions sought herein. Applicant, if permitted, intends to coordinate its proposed extended and enlarged service with its present through operation between San Francisco and Fresno and thereby render a more efficient and economic service.

During the course of these proceedings at the communities above mentioned over 200 witnesses, in the aggregate, testified with respect to the public necessity of the proposed extended service of applicant. The Commission has made a careful study of the voluminous record in this proceeding and deems it unnecessary to review at any extended length the evidence

offered by all interested parties.

The record shows that a tremendous tonnage moves daily and also weekly both northbound and southbound between the proposed bay city terminals and the intermediate points between Manteca and Fresno. San Francisco and Oakland are purchasing centers for all these San Joaquin Valley points. The bay cities merchants, both wholesale and retail, also the manufacturers and jobbers, do an extensive business in and ship all kinds of goods, wares and merchandise in large volume throughout this intermediate territory. There is also a very heavy tonnage of farm products, particularly dried and canned fruits and dairy products moving northbound from the various communities in the agricultural territory between Fresno and Manteca.

It appears that almost immediately after the authorized inauguration of the present through certificated truck service now operated by applicant between San Francisco and Fresno, continuous and increased demands have been made for this proposed intermediate service. Heretofore and up to the present time, shippers and receivers of freight have had available only private truck companies and the protesting rail lines.

The testimony of all the witnesses of applicant indicates a wide-spread desire for the proposed intermediate truck service. About 42 shippers and merchants in San Francisco and some 45 shippers in Oakland and thereabouts testified during this proceeding as to their desire to ship in less than carload lots by applicant in the aggregate at least 25 to 30 tons daily from these bay points to the San Joaquin Valley communities. The testimony of numerous witnesses whose shipments are both large and small discloses the reasons

for their endorsement of applicant's service, as well as the disadvantages and unsatisfactory features of the present transportation facilities. It appears that one of the primary needs of the entire group of applicant's witnesses is for a direct pick-up and store door delivery. The later pick-up at point of origin and expedited or early delivery at point of destination of freight transported by the proposed extended truck service is another factor favored by numerous shippers. The sole responsibility of the transportation of merchandise by the proposed auto truck service is also preferred by various receivers of freight instead of depot-to-depot rail freight service involving several different transportation agencies.

The following short excerpts from the testimony of a limited number of applicant's witnesses engaged in different lines of business is typical of testimony of numerous other witnesses and discloses clearly the reasons for the desire for the proposed extended service:

W. B. Edmonds, representing Cudahy Packing Company, testified in part as follows:

Q. What is the reason for the preference between the truck service and rail service?

A. Well, we find that our customers are very favorable to store delivery. They do not have to bother with any trucks to the railroad, or having their stuff hauled from the railroad point or depot.

Q. Have you examined the rates of the applicant?

A. We have, yes sir.

Q. Are those rates satisfactory?

A. They are. At least, we have had no complaints from what customers we charge the freight to.

Lawrence A. Bailey, in behalf of the Borden Milk Company, testified as follows:

Q. How did those shipments move?

A. By truck.

Q. What is the reason that you give this to the Valley Motor Lines?

A. It is purely service, because we often have orders here in San Francisco that we get in a hurry, and call up and phone the factory and tell the motor lines to pick it up this morning, and it is delivered this evening at the warehouse in San Francisco. It is about a seven-hour run, and we use motor trucks for that service, time in transit.

- Q. Can you get such service of the rail lines?  
 A. Not as fast as that, no.  
 Q. And that is the reason you use the truck?  
 A. That is the reason.

T. W. Harris, Jr., Traffic Manager for American Tobacco Company, testified:

- Q. What do your shipments consist of?  
 A. Tobacco, Cigaretts and cigars.  
 Q. Do your shipments to Merced and Modesto necessarily have to be delivered within any specified time?  
 A. Well, it is to our advantage to get them there at the earliest possible time, and in a great many cases we do require speed of delivery.  
 Q. Have you used the present services offered by the rail carriers south of San Francisco?  
 A. To Merced and Modesto? Q. Yes. A. Yes.  
 Q. Why will you transfer those shipments to the truck line, Mr. Harris?  
 A. The rate is more favorable than the rail rate, including pick-up at our terminal, and the customer will, we feel sure, be more satisfied with the store door delivery, which will be a saving to him.

E. P. Austin of the San Francisco Biscuit Company testified:

- Q. What will your shipments consist of?  
 A. Bakery products.  
 Q. And will they be made to practically all intermediate points between Manteca and Fresno? A. Yes Sir.  
 Q. What advantage, if any, do you consider the truck service has over the rail service?  
 A. All our merchandise is sold F.O.B. store. It is necessary to make store door delivery.

T. H. Losee, Manager of the Coffin-Redington Company, testified as follows:

- Q. All of your business to those points is rush?  
 A. I would say 99 per cent of it is rush.  
 Q. What is the cause of that?  
 A. Druggists seem to buy close, and very often there are items in there that they are in a hurry for, biologics-- perishable drugs-- biologics and things that physicians need in the case of treating patients.  
 Q. Now, what is your reason for wanting this service?  
 A. It gives us more time for filing a customer's orders; freight shipments have to leave our place of business by 3:30 in the afternoon; It gives an hour or an hour and a half more to fill our orders.

James F. Kerr of Frye and Company, meat packers, testified:

- Q. Mr. Kerr, why will you use the proposed service of the Valley Motor Lines to these points if established, instead of the existing service?

A. Well, we will use it because we believe it will benefit our business by giving us a store door delivery, which is a thing very much to be desired in the meat business.

B. J. Bailey of the M.J.B. Coffee Company testified:

Q. How have your shipments from San Francisco to points north of Fresno to Manteca been going?

A. Most of these points are being served by contract carriers now, all of our customers demanding sidewalk delivery.

Q. How are you handling your shipments at the present time to the intermediate points?

A. We have been shipping by contract carriers where we couldn't reach them with the franchise lines.

Q. Handling all of your shipments in that manner?

A. Our salesmen are asking for sidewalk delivery as much as possible, both for the convenience of the customer and to save the drayage from the depot.

D. N. Carlsen of the Benham Ice Cream Company testified:

Q. How have your shipments been moving in the past?

A. About 50 percent of the shipments have been going by rail, that is, part freight, part express; and about 50 per cent have been coming by truck.

Q. What is the nature of your shipments?

A. Sugar and flavoring; machinery parts, electric cabinets, refrigerator cabinets, and other incidental items necessary to shipments from time to time.

Q. What advantage is the service?

A. We could get our shipments picked up at the warehouse, get our sugar loaded on, directly on the truck, and delivered to us promptly, and give us the service in the morning; in other words, we can place an order with the people, whoever we buy from, and they in turn can get in touch with these people, have the merchandise picked up, and we can have it the following morning. I think it would help us considerably.

F. C. Mahan, owner of Nehi Bottling Company, testified:

Q. Why would you use the truck service instead of the railroad service, if the truck service is established?

A. It is faster. We can call up San Francisco during the day, and the next morning it is delivered to your door, while now we have to hire another man to make the delivery, so it makes an extra cost.

Q. Do you have to hire a drayman in Modesto to get the goods from your depot to your place of business?

A. Yes.

R. A. Lee of the Sunset McKee Sales Book Company testified:

Q. Is it always convenient for your company to make deliveries at any transportation company's place of receiving goods sooner than 12 o'clock?

A. No, it is not, on account of telegrams and letters coming into us after 12 o'clock at noon, and that delays the shipment of goods another 24 hours, because we have to wait until 12 o'clock next day.

Q. How late does your store stay open?

A. We are open until 6 o'clock in the evening.

Q. Would a pick-up service as late as 6 o'clock in the evening be of any advantage to your company?

A. A great deal, yes.

John L. Belden of the Oakland Meat and Packing Company testified:

Q. To what points do you make shipments?

A. All the way through the valley, every point there is in the valley.

Q. How are these shipments going forward at the present time?

A. Truck.

Q. By contract truck carriers?

A. Yes sir.

Q. Why will you use it instead of the contract carrier?

A. It is more reliable, and, another thing, they can give us store door delivery and delivery in good shape, and the goods will be taken care of in the way we want fresh meats to be taken care of. Contract carriers, if I may add, are arbitrary in a certain way, and a little unreliable.

L. B. Hughes of Montgomery Ward & Company testified:

Q. Give the Commission some idea as to the extent you would make use of this service.

A. There are two views to be taken. If the applicant be granted permission to operate from Oakland it would mean that, due to our traffic line-up, we could benefit by their service, due to better arrival time.

O. H. Koll of the Air Reduction Sales Company testified:

Q. To what points do you ship?

A. I think we ship to every town, with the exception of the town of Ceres, all the way on down.

Q. How are the shipments being forwarded at the present time?

A. By S.P. freight service and by our own trucks.

Q. In other words, by reason of putting on your own truck you have been able to reduce the time of return of your cylinders from 60 to 20 days?

A. Yes sir.

Q. Is that the reason you would use truck service?

A. That is the large reason. It isn't because of the differential in the rail service; it is because we can not get the customers to return them.

Q. In other words, because there is no store door pick-up at the other end the customers are careless in returning the cylinders, is that it?

A. Returning to us, yes sir.

M. Martensen of the Laher Auto Springs Company testified:

Q. What does your product consist of?

A. Manufacturers of automobile springs, distributors of brake lining, spring steel; also manufacturers of trunks, trunk racks,



luggage carriers; automobile bumpers.

Q. In the event that service is inaugurated and maintained will you use it?

A. We will use it, perhaps- we will utilize that service perhaps 100 per cent on account of service.

Q. Why would you use it instead of the rail freight service?

A. On account of service.

Q. You mean pick-up and delivery?

A. Pick-up and delivery, door delivery at the other end and pick-up at this end.

Mr. E. I. Pierce, Manager of Mother's Cake and Cookie Company, testified:

Q. How are your shipments being transported at the present time?

A. By truck.

Q. Under contract?

A. Under contract.

Q. Why would you use this franchised truck service instead of the contract truck service?

A. Because all my service- the other service has been bad. The equipment is poor, and we believe they are far better able to give us the service. We have had considerable trouble of late.

Margaret F. Graham of the California Peanut Company testified:

Q. Does your company make any shipments to points in the San Joaquin Valley between Manteca and Fresno?

A. Yes, we ship all through the Valley- Fresno, Modesto, Tulare, Merced.

Q. Why do you use truck?

A. In the first place, the customer prefers store door delivery, and it is quicker. Well, we try to please the customer where we are asked for store door delivery.

H. J. Williams of the Foxcroft Candy Company testified:

Q. To what extent would you use the service during a representative period?

A. We would use it for all of our shipments down in that location.

The San Francisco Chamber of Commerce has endorsed applicant's proposed service and under its authority Mr. H. M. Remington, Assistant Manager of the Transportation Department, appeared at the hearing and testified that he had made a careful investigation, together with the Transportation Committee of the Chamber, which is made up almost exclusively of traffic managers of various and large industrial companies at San Francisco, and as a result

of that investigation, there was a public need for the extended service on the basis that certificated truck transportation had come to be a standard means of transportation and that there was at present, with the exception of the service of the Railway Express Agency, Inc., no particularly expedited service into the communities sought to be served.

E. G. Wilcox, representing the Oakland Chamber of Commerce in its traffic department, testified that he has had from time to time various inquiries from Oakland merchants and shippers indicating the need of established truck service to the communities proposed to be served.

The protesting rail carriers as a group called a large number of witnesses and also introduced documentary evidence in support of their protest, which is based upon the ground that the rail freight and rail express services now existing and now available are adequate and such as to satisfy the transportation needs of the communities sought to be served by applicant. With the exception of the Pacific Motor Transport Company, the other rail carriers were at the time this proceeding was commenced, rendering and are now rendering only a depot-to-depot service.

The evidence shows that the Southern Pacific Company operates a daily overnight freight train service in less than carload lots from San Francisco and east bay communities to the principal towns intermediate between Manteca and Fresno. Shipments are received daily up to 4:00 p.m. at San Francisco depots at Fourth and Berry Streets and on Drumm Street in the wholesale district. Depots are also maintained in Oakland at Fifth and Kirkham and several other substations at convenient points in the business and wholesale districts. Freight is

available for delivery at the depots of this rail carrier at Manteca at 6:30 a.m., at Modesto at 8:00 a.m., Merced at 9:30 a.m. and at other points involved at various hours up to 3:35 p.m. on the first day after shipments are made.

The Santa Fe Railway Company also operates a daily service into the San Joaquin Valley but only to a limited number of towns proposed to be served by applicant. This rail carrier receives freight shipments up to 4:00 p.m. at its main depot in Oakland at Fortieth and San Pablo where through merchandise cars are loaded and forwarded to Richmond, from which point the Valley Merchandise Express train departs at 9:30 p.m. serving Merced and Fresno, arriving at 8:00 a.m. at Fresno. Shipments for Modesto are carried in a merchandise car to a main line station at Empire and from there hauled to Modesto over the rail line of the Modesto and Empire Traction Company. The Santa Fe Company also operates a northbound daily service leaving Fresno at 8:00 a.m. and serving Modesto and Merced through the Traction Company.

The American Railway Express introduced several exhibits showing the character and frequency of its daily service on various passenger trains to and from the communities involved in this proceeding, which disclosed in detail the extent of its pick-up and delivery service. It appears, however, that this express company only renders a pick-up and delivery service in but six of the sixteen points sought to be served by applicant. The record further discloses that while this protestant enjoys and will continue to enjoy an extensive patronage from many merchants and business establishments, who can afford to use its service and pay its higher rates for expedited express service, there are innumerable shippers who desire their class

of shipments to be transported ordinarily at a substantially lower rate. The following portion of Exhibit (No. 5) offered by applicant, discloses by comparison of class rates the very substantial difference in the rates charged in cents per 100 pounds by the Railway Express Agency and those proposed by applicant:

|            | 1st Class        |                  |        | 2nd Class |     |        | 3rd Class        |                  |    | 4th Class        |                  |    | Minimum |     |    |
|------------|------------------|------------------|--------|-----------|-----|--------|------------------|------------------|----|------------------|------------------|----|---------|-----|----|
|            | VM               | PMT              | EX     | VM        | PMT | EX     | VM               | PMT              | EX | VM               | PMT              | EX | VM      | PMT | EX |
| Manteca    | 30               | NS               | 1.10x: | 27        | NS  | 82x:   | 25               | NS               | :  | 22               | NS               | :  | 50      | NS  |    |
| Ripon      | 32               | NS               | 1.25 : | 29        | NS  | 94 :   | 26               | NS               | :  | 23               | NS               | :  | 50      | NS  |    |
| Salida     | 35               | NS               | 1.25 : | 30        | NS  | 94 :   | 28               | NS               | :  | 25               | NS               | :  | 50      | NS  |    |
| Modesto    | 35               | 43               | 1.25x: | 30        | 40  | 94x:   | 28               | 40               | :  | 25               | 35               | :  | 50      | 75  |    |
| Ceres      | 40               | NS               | 1.55 : | 35        | NS  | 1.16 : | 30               | NS               | :  | 27               | NS               | :  | 50      | NS  |    |
| Keyes      | 42               | NS               | 1.55 : | 37        | NS  | 1.16 : | 33               | NS               | :  | 30               | NS               | :  | 50      | NS  |    |
| Turlock    | 45               | 55               | 1.55x: | 40        | 51  | 1.16x: | 35               | 46               | :  | 30               | 41               | :  | 50      | 75  |    |
| Delhi      | 47               | NS               | 1.55 : | 43        | NS  | 1.16 : | 37               | NS               | :  | 35               | NS               | :  | 75      | NS  |    |
| Livingston | 50               | NS               | 1.55 : | 45        | NS  | 1.16 : | 40               | NS               | :  | 35               | NS               | :  | 75      | NS  |    |
| Atwater    | 50               | NS               | 1.55 : | 45        | NS  | 1.16 : | 40               | NS               | :  | 35               | NS               | :  | 75      | NS  |    |
| Merced     | 55               | 65               | 1.55x: | 48        | 58  | 1.16x: | 43               | 53               | :  | 38               | 45               | :  | 75      | 75  |    |
| Chowchilla | 65               | NS               | 1.55 : | 55        | NS  | 1.16 : | 50               | NS               | :  | 43               | NS               | :  | 75      | NS  |    |
| Berenda    | 70               | NS               | 1.55 : | 60        | NS  | 1.15 : | 53 $\frac{1}{2}$ | NS               | :  | 47               | NS               | :  | 75      | NS  |    |
| Madera     | 70               | 74 $\frac{1}{2}$ | 1.85x: | 60        | 65  | 1.39x: | 53 $\frac{1}{2}$ | 53 $\frac{1}{2}$ | :  | 47               | 47 $\frac{1}{2}$ | :  | 75      | 75  |    |
| Herndon    | 74 $\frac{1}{2}$ | NS               | 1.85 : | 65        | NS  | 1.39 : | 53 $\frac{1}{2}$ | NS               | :  | 47 $\frac{1}{2}$ | NS               | :  | 75      | NS  |    |
| Fresno     | 74 $\frac{1}{2}$ | 82               | 1.85x: | 65        | 72  | 1.39x: | 53 $\frac{1}{2}$ | 60               | :  | 47 $\frac{1}{2}$ | 53               | :  | 75      | 75  |    |

- x - Indicates free delivery in City Limits by Railway Express.
- VM - Valley Motor Lines.
- PMT - Pacific Motor Transport Co.
- EX - Railway Express Agency, Inc.
- NS - Indicates No Service.

Railroad minimums are based on first class rate, with minimum of 50¢ where rate is under 50¢.

This comparison discloses that the Express Agency rates are in excess by 100 per cent or more of applicant's proposed rates.

The record shows that no pick-up or delivery service was inaugurated by any of the protesting rail carriers until several months after the institution of this proceeding. The testimony of the rail protestants shows that they are the recipients of a large patronage from shippers and receivers of freight in all the communities proposed to be served both in carload and L.C.L. freight. No certificated truck service has ever been authorized up to the

present time to meet the needs of the communities proposed to be served by applicant. The only competition which has challenged the service of the rail protestants has been a large and varying assortment of private truck lines and individual truck operators including the so-called wild-cat operators who come and go with the changing seasons of the year.

All the witnesses appearing for the rail protestants in the several communities testified to the satisfactory service of the rail carriers and indicated no personal need for a certificated truck service. The record shows, however, that with few exceptions none of these various witnesses had ever seen the instant application or had any knowledge or information of what applicant proposes in the way of rates or service or pick-up or delivery or how the proposed rates of service of applicant compared with the rates and service of the existing rail and express lines. It appears also that many of these witnesses do not control the routing of the shipments made by their firms and that the routing is frequently controlled by the consignee, who pays the transportation charges, and that, in the instances where the transportation charges were prepaid on shipments made by them, they followed as a rule the instructions of the consignee with respect to the routing of such shipments. Many of protestants' witnesses also testified that from time to time when direct or emergency shipments or expedited shipments were required, truck transportation was utilized to various points in the San Joaquin Valley and that several of the well-known privately operated truck lines had been often patronized.

The Pacific Motor Transport Company, rail protestant, contends that since its advent into the territory now proposed

to be served by applicant, all public demand and necessity for the service proposed by applicant has been met. The record in this proceeding clearly shows that the inauguration of the service of the Pacific Motor Transport Company was a belated service into the field in which applicant now operates by authority of this Commission and that this protestant's present intermediate service was commenced more than four months after this applicant had sought to enlarge its truck service in that territory.

A witness for the Pacific Motor Transport Company testified that the inauguration of its service into this territory several months after this applicant had sought authority to render such a service was based, as shown by investigation, upon the demand of shippers both wholesale and retail for a pick-up and delivery service which the railroads had failed to render and thereby had lost an increasing volume of business taken over by auto truck operators.

The combination rail line and truck service of the Pacific Motor Transport Company met with some response upon its delayed advent into the territory sought to be served by applicant. It appears that the rates first published in its Tariff C.R.C. No. 1 on April 1st, 1930, were materially higher than the rates which had been theretofore proposed by the applicant, and only five communities were first offered its service. Several months later on August 20th, 1930, as this hearing progressed, this rail protestant by its Supplement No. 1 to C.R.C. No. 1 reduced its rates to the same level of applicant's to four of the points offered service and continued solicitation of business in

the communities above mentioned. On December 1st, 1930, shortly before the submission of this proceeding, this protestant made reductions in its rates to Modesto, and, in addition, extended its operations and published rates between San Francisco Bay points and all intermediate points between Manteca and Fresno on the same level as the rates proposed by applicant.

This Commission has repeatedly adhered to the rule declared in Pacific Gas and Electric Co. v. Great Western Power Co., Vol. 1, Opinions and Orders of the Railroad Commission, 203, "that only until the time of threatened competition shall the existing utility be allowed to put itself in such a position with reference to its patrons that the Commission may find such patrons are adequately served at reasonable rates." Under these principles it is there pointed out that the communities of this state shall be accorded those rates and that service to which they are in justice entitled, and "the new utilities will have the incentive upon the discovery by them of territory which is not accorded reasonable service and just rates to enter therein if they are willing to accord fair treatment to such territory."

Application of Oro Electric Corporation, Vol. 1, Opinions and Orders of the Railroad Commission, 253.

Application of United Parcel Service of Los Angeles for a Certificate of Public Convenience and Necessity, etc. 32 C.R.C. 82-99.

Application of Truckee River Power Co., 32 C.R.C. 72.  
Application of San Diego and Coronado Ferry Co. v. Railroad Commission, 80 Cal. Dec. 444.

Without overruling this salutary principle sanctioned by the decisions of this Commission for many years and which has been effective in application, there is no escape from the conclusion that applicant must be given a certificate of public convenience and necessity to inaugurate the service sought.

For the result here reached the protestants are themselves responsible by their undue delay in meeting the public need and bringing themselves within the protection of the long settled rule applicable in such cases as this.

Valley Motor Lines, Inc. 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 property 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 duly submitted and being now ready for decision,



THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY DECLARES that public convenience and necessity re-  
quire the operation by Valley Motor Lines, Inc. of an  
auto truck service for the transportation of property  
between San Francisco, on the one hand, and all inter-  
mediate points in the territory between Manteca and  
Fresno, including Manteca, on the other hand, and to  
serve locally between all such intermediate points,  
included among which are Ripon, Salida, Modesto, Ceres,  
Keyes, Turlock, Delhi, Livingston, Atwater, Merced,  
Chowchilla, Berenda and Herndon, said operations to  
be conducted in conjunction with and as part of ap-  
plicant's existing right between between San Fran-  
cisco and Fresno established by Decision No. 20787,  
issued on Application No. 14474, and not as a sepa-  
rate right; also, as an extension of the enlarged  
right as described in this declaration between  
Oakland, Alameda, Berkeley, Emeryville and San  
Leandro, on the one hand, and Manteca and Fresno  
and points intermediate as described above, on the  
other hand, and

IT IS HEREBY ORDERED that a certificate of  
public convenience and necessity for such a ser-  
vice be and the same is hereby granted to Valley  
Motor Lines, Inc., subject to the following con-  
ditions:

1. That no service whatever shall be per-  
formed between San Francisco and Oak-  
land or Alameda, Emeryville, Berkeley  
and San Leandro, nor shall any local  
service be performed between Oakland,  
Alameda, Berkeley, Emeryville and San  
Leandro.

2. That no local service shall be performed between San Francisco and the East Bay points named herein and any point north of Manteca.
3. That the order herein shall not be construed as authority to link up, join or consolidate the operating rights herein granted with other operating rights owned or controlled by applicant, except as herein specifically authorized.
4. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.
5. Applicant shall file in duplicate and make effective within a period of not to exceed thirty (30) days from the date hereof a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted.
6. Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof time schedules, covering the service herein authorized, in a form satisfactory to the Railroad Commission.
7. 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.
8. 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.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 17th day of August, 1931.

C. L. Seamy  
Leon A. Whelan

18. W. B. Harris  
Fred G. Stewart  
 Commissioners.