

Decision No. 24526

## BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of RAILWAY EXPRESS AGENCY, Incorporated of California, for a certificate of public convenience and necessity, to operate motor vehicles for the transportation of Express matter for Railway Express Agency, Incorporated or its successors; also for the transportation of milk and cream and other traffic that may be offered, by and for Southern Pacific Company, a corporation, between Lodi and Valley Spring and intermediate points.

ORIGINAL

Application  
No. 17969

BY THE COMMISSION -

O P I N I O N

Railway Express Agency, Incorporated of California, seeks to establish daily transportation service for property of Railway Express Agency, Incorporated of Delaware, and Southern Pacific Company between Lodi and Valley Spring (a distance of 26 miles), serving all intermediate points, including Victor, Lockeford, Clements, Wallace and Helisma. The service proposed is to be a substitute for certain passenger train schedules which have been abandoned by authority of Decision No. 24440, on Application No. 17730, dated February 1, 1932.

The service is only for property consigned to Railway Express Agency, Inc. in transit to or from points involved; also, for such freight, namely, milk and cream N.O.S., cottage cheese, unflavored ice cream mix, baggage and "any other traffic which the Southern Pacific desires to have transported for it."

There is no existing transportation, except freight, between termini or intermediates. All the transportation to be conducted by applicant will be at rates for express and freight now on file with the Commission, or as they may be altered. Applicant proposes to lease a one and one-half

ton truck from R. E. Hanlon, of Lodi, if the certificate be granted.

There appears no reason why the application should not be granted. It also appears that this is a matter in which a public hearing is not necessary.

Applicant Railway Express Agency, Incorporated of California, 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 <sup>purely</sup> 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

Railway Express Agency, Incorporated of California, having made application for a certificate of public convenience and necessity to operate automotive truck service between Lodi and Valley Spring and intermediates,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment of automotive service by truck for the transportation of

- (a) Property consigned to Railway Express Agency, Inc. to or from Lodi and Valley Spring and all points between termini, and
- (b) Property consigned to Southern Pacific Company to or from Lodi and Grass Valley and all points intermediate;

over and along the following route:

Via County highway between termini via Victor,  
Lockeford, Clements, Wallace and Helisma, and

IT IS HEREBY ORDERED that a certificate of public convenience  
and necessity therefor be and the same hereby is granted, subject  
to the following conditions:

1. Applicant shall confine its operations to the transportation of express and freight of Railway Express Agency, Incorporated of Delaware, and Southern Pacific Company and no other service.
2. Applicant shall file its written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
3. Applicant shall file in duplicate and make effective within a period of not to exceed thirty (30) days from the date hereof on not less than ten days' notice to the Commission and the public 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 insofar as they conform to the certificate herein granted.
4. 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.
5. 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.
6. 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 29<sup>th</sup> day of

February, 1932.

O. P. Leary  
Leon Giblin  
W. A. Carr  
W. B. Quinn  
Fred G. Stebbins  
COMMISSIONERS.