

Decision No. 25101

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of L. R. KAGARISE, doing business under the fictitious name of KEYSTONE EXPRESS SYSTEM, for permission to consolidate operative rights now exercised under Decisions 19012 and 19013 and 19014 and 19055 and 19095 and 18410, and to extend service into the Harbor and Bay District west of Los Angeles, no new operative rights being sought to or from Los Angeles proper.

Application No. 17383.

ORIGINAL

Sanborn, Roehl & Brookman, by Douglas Brookman,
Harry N. Blair, Libby & Sherwin,
by Warren E. Libby, for applicant.
Phil Jacobson for Los Angeles & San Pedro Transportation Company, protestant.
Davis & Thorne, by Leland Davis, and Phil Jacobson for S. Brice Cowan, protestant.
F. M. Leake for Railway Express Agency, Inc., protestant.
Phil Jacobson for Rex Transfer Company, interested party.
E. J. Bischoff for Rice Transportation Company, Donovan Transportation Company, Glendale-Verdugo Hills Express, Glendale Interurban Express and Motor Service Express, protestants.
Hugh Gordon for Richards Trucking & Warehouse Company, protestant.
W. F. Brooks and Leo E. Sievert for The Atchison, Topeka & Santa Fe Railway Co., protestant.
Clarence Hottle for Pacific Motor Transport Co., interested party.
James F. Collins and Charles A. Bland for the Board of Harbor Commissioners of Long Beach.
Ray O. Baldwin for the Long Beach Chamber of Commerce.
E. E. Wedekind for Pacific Electric Railway Company, protestant.
Henry E. Carter for Puckett Freight Lines, protestant.
E. A. Tucker for Pioneer Transfer of Corona, protestant.
R. J. Stadler for S. & M. Transfer, protestant.

O P I N I O N

BY THE COMMISSION:

L. R. Kagarise, doing business under the fictitious name and style of Keystone Express System, by his amended application has petitioned the Railroad Commission for an order authorizing the

unification and consolidation of operative rights heretofore granted and an extension of service into the Long Beach and Los Angeles Harbor Districts and also to points west of Los Angeles. No new operative rights are sought from Los Angeles proper to points not already served by the presently operated authorized lines of applicant.

Public hearings on this application were conducted by Examiner Handford at Los Angeles, the matter was duly submitted on filing of briefs by counsel and is now ready for decision.

Applicant proposes to charge rates in accordance with a schedule marked "Exhibit A", as attached to the amended application; to render daily service with delivery within twenty-four hours from time of pickup at shipping points, and to use the present equipment now operated, together with such additional equipment as the volume of traffic may require.

Applicant relies as justification for the granting of this application upon the following alleged facts: That there is a very substantial volume of intermediate business between the several territories now served by applicant under authority of existing separate certificates and that the consolidation of such separate certificates with the establishment of through rates and service will result in shippers receiving a more expeditious service at lower rates than now exist by the required combination of local rates and service; that industries in Southern California are avoiding the highly congested districts of the cities and are locating in nearby towns where land values are low, and that between Los Angeles and the harbor districts of Long Beach and Los Angeles there are many industries which ship into territories now served by the applicant. An extension of applicant's

present service to the harbor and bay districts has been urged by a number of large shippers who have promised tonnage sufficient to justify the proposed extensions and consolidation of service.

L. R. Kagarise, applicant herein, testified that he had been engaged in the operation under the name of Keystone Express System, under the authority of certificate rights duly granted by this Commission; that he desired to consolidate such operating rights and extend service to Long Beach and Los Angeles Harbor, also to Santa Monica Bay points. No additional service is contemplated for shipments from Los Angeles proper nor for any service locally between Los Angeles and Long Beach, Los Angeles Harbor points or Santa Monica Bay points. This witness testified as to the advantages resulting from the consolidation of present certificate rights resulting in improved service and lower rates; also to the elimination of double minimum charges on small shipments. Witness now operates 36 trucks and 12 trailers, such equipment being considered sufficient to care for the business of the consolidated system and the extensions herein sought. Applicant has been operating freight trucking in Southern California for the last 15 years and is well acquainted with the trucking business.

Witnesses testified in behalf of the applicant from Ontario, Pomona, Cucamonga, Wilmington, Hollydale, South Gate, Terminal Island, Inglewood, West Los Angeles, Long Beach, Pasadena, Culver City, Upland, Los Angeles, Van Nuys, Burbank, Rosemead, Alhambra and Baldwin Park. These witnesses were all shippers or receivers of freight and were merchants, warehousemen or employes in charge of shipping. All desired the extension of applicant's service to the harbor points of Long Beach and Los Angeles, ^{Harbor} as well as the direct shipment proposed without the necessity of shipping through Los Angeles with the use of more than one carrier.

The imposition of two minimum charges on small shipments was also the subject of complaint and was objected to by some of the witnesses.

Witnesses representing the Chamber of Commerce and the Harbor Board of the City of Long Beach favor the granting of the application. Long Beach has recently established harbor facilities and desires adequate truck transportation facilities to interior points and to receive the benefit of rates on a mileage basis from Long Beach as are proposed by applicant. Shippers at Long Beach also desire the proposed service.

The granting of the application as regards the proposed extensions is opposed by a large number of truck lines, and also by rail lines now serving the territory proposed by the applicant. These protestants claim to be now adequately serving all the territory by direct service or by regular transfer, the latter principally at Los Angeles. It is claimed that no reasonable cause for delay in the delivery of shipments results from this transfer and that the duplication of minimum charges is so infrequent that there is no reason for the change from the existing methods of authorized transportation. All methods of transportation, both rail and truck, are at present doing business without enjoying capacity haul on their equipment and any new competition is not favored, present lines contending that their facilities and rates are ample to care for the present and a largely increased amount of business.

The Commission has fully and carefully reviewed the voluminous record in this proceeding. There appears no protest against applicant being authorized to consolidate existing operative rights as now conducted by decisions previously rendered by this Commission and as referred to in the application. The order herein will provide for the consolidation.

As to the extensions proposed, we are of the opinion that public convenience and necessity require the extension of service from Long Beach and its harbor, and to Los Angeles Harbor points (Wilmington, San Pedro, East San Pedro and Terminal Island) provided, however, that no local hauling shall be done between Los Angeles and Long Beach, or between Los Angeles and Los Angeles Harbor points. Service between Los Angeles and the communities at Vernon, Maywood, Huntington Park and South Gate will be authorized, not as a local service to or from Los Angeles but for shipments destined to or received from other points on applicant's line. The record herein does not justify the granting of authority requested for a number of proposed extensions, such as the proposed extension from Pasadena to San Fernando; from West Los Angeles northerly through Sepulveda Canyon; from Los Angeles via two routes to Santa Monica, Ocean Park and Venice, from Santa Monica through Ocean Park, Venice, Playa del Rey, El Segundo, Manhattan Beach, Hermosa Beach, Redondo Beach to Los Angeles Harbor, between Redondo Beach and Clearwater via Compton, between Los Angeles and Torrance via Englewood, from Riverside to Peralta via Arlington and Corona, from Corona to Chino and Ontario or from Corona north to the road leading from Ontario to Riverside. The record shows no necessity for the service of applicant direct from Long Beach or Los Angeles Harbor points to points in Orange County as carriers now duly authorized have ample facilities to furnish such transportation and any business which may offer for Orange County points can be cared for by existing authorized lines of the applicant. This application covers the majority of the routes in Southern California and proposes service for a distance of five miles each side of main highways traversed and the Commission will require a full showing of public necessity

before granting such an application. In our opinion, the following order fully covers all necessity which has been shown by the application herein.

L. R. Kagarise 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 on the above entitled application, the matter having been duly submitted and the Commission being fully advised,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the consolidation of operative rights now owned by applicant L. R. Kagarise, and operated under the fictitious name of Keystone Express System, said operative rights having been heretofore granted by this Commission's Decisions No.19012 on Application No.13970; No.19013 on Application No.14041; No.19014 on Application No.14047; No.19055 on Application No.14166; No.19095 on Application No.14221 and No.19410 on Application No.13087, and for extensions from said operative rights from Los Angeles to the Communities of Vernon, Maywood, Huntington Park and South Gate, provided, however, that no local business shall be transported between Los Angeles and the points of Vernon, Maywood, Huntington Park and South Gate. Also, extensions between Los Angeles and

Long Beach and between Los Angeles and Los Angeles Harbor points of Wilmington, San Pedro, East San Pedro and Terminal Island, provided, however, that no local business shall be transported between Los Angeles and Long Beach or Long Beach Harbor, nor between Los Angeles and Los Angeles Harbor points. Also for extensions between Los Angeles Harbor points and Long Beach and Long Beach Harbor.

The routes as heretofore covered by this Commission's decisions are as follows:

From Pasadena to Foothill Boulevard to Junction at Azusa, serving

1. Pasadena, Lamanda Park, Santa Anita.
2. Sierra Madre.
3. Santa Anita Wash.
4. Arcadia.
5. Monrovia, Duarte and Azusa.

San Gabriel Boulevard crossing following the Valley Boulevard to junction at El Monte, serving

6. San Gabriel Boulevard crossing, Amarillo, Rosemead, Savannah, Ardendale, El Monte.

From Junction at Ontario to Upland, serving

7. Ontario, Euclid Avenue, Upland.

From Junction at Guasti (South Cucamonga) to junction at Cucamonga, serving

8. Guasti, Archibald Avenue, Cucamonga.

From Junction at Cucamonga to Alta Loma, serving

9. Cucamonga, Alta Loma

From Junction at Cucamonga east to Highlands, serving

10. Cucamonga, Etiwanda Road Junction.

11. Etiwanda (a detour).

12. Fontana, Rialto, San Bernardino.

13. Highlands.

Connecting San Bernardino and Colton, also Highlands, with Redlands, serving

14. San Bernardino (Mt. Vernon Ave.) Colton.

15. Highlands, Orange Ave., Redlands.

From Junction at Guasti (South Cucamonga) east to Redlands, serving

16. Guasti, Bloomington.

17. Colton, Redlands.

From junction at Ontario east through Riverside to Colton, serving

18. Ontario, Wineville, Riverside.

19. Highgrove, Colton.

20. Pasadena, Alhambra, El Monte Road Jct. Whittier Boulevard Jct., Telegraph Road, Downey.

21. Pasadena, San Gabriel.

22. El Monte Road Jct., Pico.

23. Bassett, Bartola.

24. Pico Junction, Pico.

25. Brea Canyon Junction on Valley Boulevard, Brea, Chapman, Fullerton.

26. La Habra, Whittier.

27. Fullerton, Anaheim.

28. Fullerton, Placentia.

29. Pomona, Chino, Olinda, Placentia.

30. Placentia, Richfield, Peralta.

31. Placentia, Anaheim.

32. Peralta, Olive, Orange.

33. Orange, Tustin Jct., Anaheim.

34. Orange, Santa Ana.

35. Pico, Rivera, Downey.

36. Downey, Studebaker, Norwalk.

37. Norwalk, La Miranda, Northam, Buena Park, Fullerton.

38. Downey, Clearwater.

39. Clearwater, Bellflower, Artesia.

40. Artesia, Norwalk.
41. Artesia, Los Alamitos.
42. Los Alamitos, Seal Beach.
43. Los Alamitos, Cypress, Stanton, Anaheim.
44. Seal Beach, Westminster.
45. Westminster, Bolsa, Santa Ana.
46. Westminster, Smeltzer, Talbert, Huntington Beach.
47. Huntington Beach, Talbert, Newport, Fairview, Newport Beach.
48. Newport Beach, Harper, Paularino, Delhi, Santa Ana.
49. Santa Ana, Tustin.
50. Tustin, Irvine Station.
51. Los Angeles, Alhambra, San Gabriel, East San Gabriel and intermediate points.
52. Los Angeles, Glendale.
53. Los Angeles, Monrovia.
54. Los Angeles, Burbank, Van Nuys, Lankershim.
55. Van Nuys, Zelzah, Marien, Owensmouth.
56. Marien, Universal City, Lankershim.
57. Universal City, Los Angeles.
58. Los Angeles, San Fernando.
59. Burbank, Roscoe, Pacoima.
60. Los Angeles, South Pasadena, Pasadena.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted for the consolidation and joint operation as one transportation system of the rights over the routes hereinabove specified and as heretofore contained in this Commission's Decisions No. 19012, on Application No. 13970, No. 19013, on Application No. 14041, No. 19014 on Application No. 14047, No. 19055 on Application No. 14166, No. 19095 on Application No. 14221 and No. 19410 on Application No. 13087.

Also for extensions from the consolidation of the foregoing operative rights from Los Angeles to the communities of Vernon, Maywood, Huntington Park and South Gate, provided, however, that no local business shall be transported between Los Angeles and the communities of Vernon, Maywood, Huntington Park and South Gate. Also extension between Los Angeles and Long Beach and between Los Angeles and the Los Angeles Harbor points of Wilmington, San Pedro, East San Pedro and Terminal Island, provided, however, that no local business shall be transported between Los Angeles and Long Beach or Long Beach Harbor, nor between Los Angeles and the Los Angeles Harbor points of Wilmington, San Pedro, East San Pedro or Terminal Island. Also for extension between Los Angeles Harbor points and Long Beach and Long Beach Harbor.

This order is subject to the following conditions:

1. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from the date hereof.

2. 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 (10) 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 in so far as they conform to the certificate herein granted.

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 five(5)days' notice to the Commission and the public, time schedules according to forms provided in General Order No.83, covering the service herein authorized, in a form satisfactory to the Railroad Commission.

4. 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.

5. No vehicle may be operated by the applicant herein unless such vehicle is owned by said applicant or is leased by him 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 29th day of August, 1932.

C. Seaver
Leon Whidley
W. A. Carr
W. B. Harris
Fred G. Stewart
Commissioners.