

Decision No. 26602

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
INTERCITY TRANSPORT LINES, INC. for  
a Certificate of Public Convenience  
and Necessity.

)  
)  
) Application No. 19194.

BY THE COMMISSION:

OPINION

Applicant is an express corporation<sup>1</sup> engaged in transporting property over the lines of various common carriers in this state. By application filed November 17, 1933, it seeks a certificate of public convenience and necessity for the continuance of its express business if such a certificate is required under the statutes.

Section 50(f) of the Public Utilities Act reads in part:

"No express corporation or freight forwarder shall after August 1, 1933, commence operating between points in this State or extend its operations to or from any point or points in this State not theretofore served by it, unless and until it shall first secure from the Railroad Commission, upon formal application therefor, a certificate that public convenience and necessity require such operation. Any express corporation or freight forwarder having between May 1, 1933, and the effective date of this act, commenced operations or extended its service as aforesaid, shall have ninety (90) days

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Section 2(k) of the Public Utilities Act reads:

"The term 'express corporation', when used in this act, includes every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, engaged in or transacting the business of transporting any freight, merchandise or other property for compensation on the line of any common carrier or stage or auto stage line within this state."

after the effective date of this act to file with the Railroad Commission a formal application for a certificate of public convenience and necessity for such service. The Railroad Commission shall have power, with or without hearing, to issue such certificate, or to refuse to issue the same, or to issue it for the partial exercise only of the privilege sought, and may attach to its order granting such certificate such terms and conditions as, in its judgment, the public convenience and necessity require."

On May 1, 1933, applicant was engaged in the transportation of property between San Francisco Bay points and points south thereof as far as Aptos and Watsonville. On July 24, 1933, effective July 26, 1933, it filed its Local Express Tariff No. 2, C.R.C. No. 2, naming rates, rules and regulations for the transportation of property between San Francisco, Oakland, Crescent City, Happy Camp, Burnt Ranch and other points as shown therein. At the same time it also amended its Local Express Tariff No. 1, C.R.C. No. 1 to include Livermore, Pleasanton, Sunol, Dublin and Richmond.

Applicant alleges that since the effective date of these tariffs it has held itself out to and has rendered for the public transportation service between the points shown therein and that public convenience and necessity require that applicant continue to render this service.

It appears that this is a matter in which a public hearing is not necessary, and that the certificate prayed for should be granted.

Applicant Intercity Transport 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 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. The monopoly 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.

ORDER

An application having been filed with the Commission,  
and it being fully advised.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to applicant Intercity Transport Lines, Inc. authorizing it to continue the express service referred to in the opinion which precedes this order, 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 the date hereof.
2. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred or assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

Dated at San Francisco, California, this 4<sup>th</sup> day  
of December, 1933.

C. L. Loney

M. A. Linn

W. B. Harris

Walter W. Wain  
COMMISSIONERS.