

Decision No. 26942

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the matter of the application of VALLEY MOTOR LINES, INC., a corporation, and MOTOR FREIGHT TERMINAL COMPANY, a corporation, to interchange equipment at Fresno, California, in connection with the transportation of property between Fresno and Los Angeles, for VALLEY EXPRESS CO., an express corporation, without transferring loadings from the equipment of one applicant company to the equipment of the other applicant company.

ORIGINAL

Application No. 19266

W. S. Johnson and Wallace K. Downey, for Applicants.
E. W. Hobbs, for Pacific Motor Transport Company and Southern Pacific Company, Protestants.
Edward Stern and E. W. Hobbs, for Railway Express Agency, Inc., Protestant.
R. W. Lacey, for California Motor Express Company, Ltd., and California Motor Transport, Ltd., Protestants.
Lee E. Sievert, for The Atchison, Topeka & Santa Fe Railway Company, Protestant.

WARE, Commissioner:

O P I N I O N

Applicants are transportation companies operating under certificates of public convenience and necessity granted under the provisions of the Auto Truck Transportation Act. Valley Motor Lines operates between San Francisco and Oakland and Fresno and Motor Freight Terminal Company between Fresno and Los Angeles, Los Angeles harbor, Santa Barbara, San Diego and Imperial Valley. Valley Express Company is an express corporation operating under authority of Section 2-K of the Public Utilities Act.

Applicant transportation companies join in applying to the Railroad Commission for authority to interchange equipment at Fresno when such equipment is used exclusively for through shipments between points north of Fresno and points south of Fresno,

when such cargo is moving over the lines of the two transportation companies under their contracts with Valley Express Company for through carriage between San Francisco bay region and Los Angeles and other points.

A public hearing was held at Los Angeles, February 28, 1934, at which time the matter was submitted on briefs. The matter is now ready for decision.

Valley Express Company validly offers through service of freight between points on the two operations under its contracts with the carrier corporations. The express rates and the contracts are on file with this Commission. There is no dispute but that such through express service is now being rendered and its validity is not questioned.

It appears, however, that this through service may not be conducted except by transferring cargoes from truck to platform and from platform to truck at Fresno. Such physical necessity requires considerable cost, - Mr. C. G. Anthony, Manager of Motor Freight Terminal Company, estimating 12 man hours for each transfer, and Mr. Wythe, for protestants, estimating 6 hours. It also entails increased breakage and astrays resulting in damage claims. Mr. Anthony testified the system's experience was that damage and loss claims are about one-half of one percent of the revenue but that such claims incidental to the express cargo transfer at Fresno were twice this amount. This testimony was not refuted.

The volume of express shipments involved in this interchange is large. While the bulk of it is between San Francisco bay region and Los Angeles, there are shipments going to various points served by the carriers and some to connecting carriers. Mr. Anthony presented figures (Exhibit No. 1) showing that between January 1 and February 20, 1934, 242 tons moved northward and 445 tons southward. This tonnage comprised 1427 separate shipments and much of it, perhaps half, was truckload. Thus, during the 43 working days of the period an average of 33 shipments daily were transferred at Fresno

and involved over 15 tons daily. The average weight per shipment for the period was 1020 pounds. Applicants request authority to eliminate the transfer as to the express shipping indicated. They propose to lease to each other equipment owned by each and to load same at termini of Los Angeles or the Bay points served and move through Fresno, their connecting point, without transfer. Employees of each company will operate the equipment in their respective territory, and each company will have full responsibility over the route it is authorized to serve.

Protestants urge that this is a mere subterfuge to avoid seeking a certificate of public convenience and necessity which, they also urge, is a necessary prerequisite to eliminating transfer of cargo between trucks. This contention is untenable for the reason that through service, validly offered by Valley Express Company, now exists. This service, however, is beset with the impediment sought to be removed and such removal will inure to the benefit of the transportation companies in eliminating cost of transfer and damage in transit. Benefits likewise will be enjoyed by the shipping public in resultant expedition and safety.

The auto Truck Transportation Act (Secs. 4 and 5) confers ample authority in the Commission to "alter or amend" any certificate, upon "notice to the grantee and opportunity to be heard." The application, in effect, seeks to alter and amend. Certainly all parties at interest had notice and have participated in the proceedings. The grantees seek and consent to the amendment. The Commission, also, "may attach to the exercise of the right granted by said certificate such terms and conditions as, in its judgment, the public convenience and necessity may require." The Commission may, even against the will of a holder of such certificate "revoke, alter or amend" such certificate. The power to grant applicants the relief sought appears plenary.

It is our conclusion that the application should be granted. It appears that such action will benefit alike the shipping public and the regulated transportation companies. The procedure followed by the applicant companies illustrates the proper and legal method to effect such desired modifications in the conditions of the certificates involved.

The following form of order is recommended:

O R D E R

The above entitled application having been duly heard and submitted and the Commission being fully advised,

IT IS HEREBY ORDERED that Condition No. 6 attached to Decision No. 24396, dated January 18, 1932, on Application No. 17517 of Motor Freight Terminal Company be, and it hereby is amended to read as follows:

"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; provided, however, that applicant may, for the transportation of express matter only of Valley Express Company, an express corporation, with whom it has contracts, lease its equipment to a connecting carrier of such express shipments, to-wit, Valley Motor Lines, Inc., and when such lease is filed with this Commission (and approved by it) may cease the physical transfer of such express shipments at the connecting point, viz: Fresno, and shall have authority to operate such leased equipment between extreme termini of both transportation companies; and provided, further, that the authority herein granted shall apply only to the interchange of equipment at the City of Fresno, when loadings contained therein are in transit for the account of Valley Express Company, from points on the lines of Valley Motor Lines to points on the lines or beyond the lines of Motor Freight Terminal Company."

IT IS HEREBY FURTHER ORDERED that Condition No. 8 of Decision No. 23949, dated August 17, 1931, on Application No. 16176 of Valley Motor Lines, Inc. and Condition No. 4 of Decision No. 22290, dated April 3, 1930, on Application No. 16327, of Valley Motor Lines, Inc. be and it is hereby amended to read as follows:

"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; provided, however, that applicant may, for the transportation of express matter only of Valley Express Company, with whom it has contracts, lease its equipment to a connecting carrier of such express, to-wit, Motor Freight Terminal Company, and when such lease is filed with this Commission (and approved by it) may cease the physical transfer of such express shipments at the connecting point, viz: Fresno, and shall have authority to operate such leased equipment between extreme termini of both transportation companies; and provided, further, that the authority herein granted shall apply only to the interchange of equipment at the City of Fresno when loadings contained therein are in transit for the account of Valley Express Company from points on the lines of Valley Motor Lines to points on the lines or beyond the lines of Motor Freight Terminal Company."

The effective date of this order shall be twenty (20) days from the date hereof.

The foregoing Opinion and Order are hereby approved and ordered filed as the Opinion and Order of the Railroad Commission.

Dated at San Francisco, California, this 16th day of April, 1934.

C. Leary
Leon Whelan
W. J. Van
M. B. Harris
Walter M. ...
Commissioners.