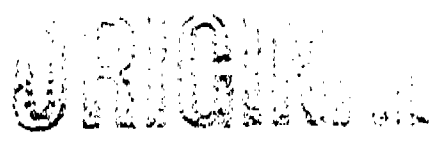


Decision No. 28190

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
H. Frasher, an individual, for a  
certificate of Public convenience and  
necessity to operate a motor truck  
service for the transportation of  
property, under contract, for Valley  
Express Co., an express corporation,  
and other carriers of the same class,  
between Oakland, Emeryville, Berkeley,  
Alameda and San Leandro on the one  
hand and San Jose, Santa Clara and all  
intermediate points between Oakland  
and San Jose on the other hand.



Application  
No. 19976

BY THE COMMISSION -

O P I N I O N

H. Frasher, an individual, has made application to  
establish automotive truck service as a common carrier,  
under contract with Valley Express Company, a corporation,  
for the transportation of property consigned to Valley  
Express Company and/or other express companies, between  
Oakland, Emeryville, Berkeley, Alameda and San Leandro,  
on one hand, and Hayward, Decoto, Niles, Mission San  
Jose, San Lorenzo, Mt. Eden, Alvarado, Midway, Newark,  
Centerville, Irvington, Warm Springs, Milpitas, Wayne,  
Sunol, Pleasanton, Livermore, Santa Rita, Dublin, Castro  
Valley and San Jose and Santa Clara on the other hand.

The express company of which applicant is an officer,  
assertedly has suffered great shrinkage in the volume of  
traffic formerly handled, because the consignments are trans-  
ported by Pacific Motor Trucking Company, a subsidiary of a  
competitor, namely, Pacific Motor Transport Company.

Applicant alleges that he will perform service only for the Valley Express Company, or any other express company, under proper contracts to be filed with this Commission.

This appears to be a matter in which a public hearing is not necessary, and the application should be granted.

Applicant Harold Frasher 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

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA  
HEREBY DECLARES THAT public convenience and necessity require the establishment of an automotive trucking service for the transportation of property between Oakland, Livermore and San Jose and Santa Clara and the intermediate points named in the foregoing opinion, over and along the following routes:

Between Oakland and Santa Clara via Highway No.101,  
via Hayward and Niles and/or Highway No.17 between  
San Leandro and Warm Springs; and between Livermore  
and Hayward via Highway No.50; and between Livermore  
and Niles, via Pleasanton and Sunol or via U. S.  
Veterans' Hospital, with alternate route via Mission  
San Jose to Warm Springs; and

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

1. Applicant shall file his written acceptance of the certificate herein granted within a period of fifteen (15) days after the effective date hereof, stipulating in said acceptance that the certificate is accepted with the precise limitation of service to the transportation of property consigned to the Valley Express Company, a corporation, and/or any other express company, authorized to operate under Section 2(k) of the Public Utilities Act, for transportation to such points as said express company or companies are authorized validly to serve, and for no other service.
2. Applicant shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, 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 in so far as they conform to the certificate herein granted, or rates satisfactory to the Railroad Commission.
3. Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Commission and the public, time schedules 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 vehicles may be operated by 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 3<sup>rd</sup> day of ~~July~~<sup>September</sup>, 1935.

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*H. A. C.*  
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*W. H. C.*  
*W. H. C.*  
COMMISSIONERS.