

Decision No. 28206

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of VALLEY MOTOR LINES, INC., a corporation for a certificate of public convenience and necessity to operate an auto truck service for the transportation of property as a common carrier for compensation over the public highways between San Francisco, Oakland, Alameda, Emeryville, Berkeley, San Leandro, Manteca and points between Manteca and Fresno, etc.

ORIGINAL

Application No. 18237

In the Matter of the Application of VALLEY MOTOR LINES, INC., for a certificate of public convenience and necessity to operate an auto truck service for the transportation of property under contract for Valley Express Co. between Stockton and Sacramento.

Application No. 19069.

W. S. Johnson, for Valley Motor Lines, Inc. petitioner.

H. W. Hobbs, for Southern Pacific Company and Pacific Motor Transport Co., protestants.

Berne Levy, for Atchison, Topeka & Santa Fe Railway and Central California Traction Co., protestants.

L. N. Bradshaw, for Western Pacific Railroad and Sacramento Northern Railway Co., protestants.

BY THE COMMISSION:

OPINION ON PETITION TO CLARIFY

By Decision No. 27640 on Application No. 19069 and Decision No. 27898 on Application No. 18237 Valley Motor Lines was authorized to establish certain truck operations, with restrictions, between Sacramento and Stockton. The certificates were duly accepted by grantee and service thereunder established, after tariffs attached to Application No. 19069 were duly filed. Such tariffs included these two items:

¹

L.C.L. Freight Tariff No. 2, C.R.C. No. 5.

Car load and less-than-car-load rates named herein will apply within the City limits, and also to points outside the Sacramento City limits as follows:

The plants of Rice Growers of California - West Sacramento Sacramento Box Company, 65th & R Streets, Sacramento.

Car load and less than car load rates named herein will apply within the City limits, and also to points outside the Stockton City limits, as follows:

The plants of California Cedar Products Co., Central Petroleum Corporation, Central States Oil Company, M. Davidson, Dodge Brothers Truck Plant, Gilmore Oil Company, Ltd., Gulf Red Cedar Co., Harris Manufacturing Co., R. G. Le Torneau, Mor-Pak Preserving Corporation, Stockton Box Company, The Engineering and Foundry Company.

Informal complaint of another carrier, that such operations exterior to Sacramento and Stockton were not authorized and were in excess of the restrictions imposed in each decision mentioned was filed with the Commission. Informal ruling that the complaint was well based resulted in Valley Motor Lines withdrawing and cancelling both items of its tariff. The instant petition to clarify both decisions (the later one had assimilated the prior grant unchanged) was then filed seeking explicit restoration of the items withdrawn and authority to extend the free pickup and delivery zone of petitioner to include the exterior points.

A public hearing was conducted by Examiner Williams at San Francisco.

It was stipulated at this hearing that the matter may be determined upon the record in Applications Nos. 19069 and 18237 and particularly the testimony of applicant's witnesses R. C. Ralston, J. C. Brewer, J. G. Thompson, W. G. Stone and J. G. Somers ¹.

¹ The testimony was received in Application No. 18237 and was stipulated in Application No. 19069, the latter being determined before completion of hearings on the former.

The testimony of these witnesses in support of the exterior areas involved in the cancelled items was not refuted by protestants. Yet such testimony as to public need, helps very little in any step toward clarification as, at the time the testimony was given, applicant sought a much larger scope of operation than in the final fifth amended application, as explained in Decision No. 27898.

To clarify a decision is to correct ambiguity, obscurity or uncertainty in the language expressing the intent of the Commission,- something palpable in the order itself. In the order in Decision No. 27898 there is neither ambiguity, obscurity nor uncertainty. The order was promptly accepted by grantee and operations thereunder were conducted until the rate items involved herein were attacked. The order fixed Sacramento and Stockton, incorporated cities, as termini for the operation, without further qualification. The tariff items withdrawn includes West Sacramento, also an incorporated city, and twelve points exterior to Stockton. While all foregoing exterior points were named in rate exhibits attached to the application, as amended, the grant itself did not include them.

Condition No. 5 of the order in Decision No. 27898 requires the filing of rates "which in volume and effect, shall be identical with the rates and rules shown in the exhibits attached to the application in so far as they conform to the certificate herein granted; or rates satisfactory to the Railroad Commission." (Emphasis added). The items under consideration do not "conform to the certificate" being in excess thereof. The other alternative, "or rates satisfactory to the Commission" does

not permit new or different rates or new points, and is more to the point of correcting manifest technical or mathematical errors.

The record does not justify the request of applicant "to extend its pick up and delivery services without" the corporate limits of Sacramento and Stockton. In no case can pick up and/or delivery services exceed the grant in the certificate. To exceed such grant, authority in the form of additional certification must be obtained as required by Section 50-3/4 etc. of the Public Utilities Act.

The petition will be dismissed.

O R D E R

The above entitled matter having been duly submitted after public hearing thereon, and the Commission being fully advised in the premises,

IT IS HEREBY ORDERED that the petition for clarification of the order in Decisions Nos. 27640, on Application No. 19069 and No. 27898 on Application No. 18237, be and the same hereby is denied.

Dated at San Francisco, California, this 28th day of October, 1935.

M. A. Paine

M. B. Harris

W. L. ...

Frank ...
COMMISSIONERS.