

Decision No. 29505

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of  
 RAILWAY EXPRESS AGENCY, INCORPORATED,  
 OF CALIFORNIA, for a certificate of  
 public convenience and necessity for the  
 transportation of property by motor  
 truck for RAILWAY EXPRESS AGENCY,  
 INCORPORATED, of Delaware, and for other  
 common carriers between San Francisco  
 and Oakland. )

) Application  
 No. 20736

BY THE COMMISSION:

**ORIGINAL**O P I N I O N

By this application and amendment thereto, Railway Express Agency, Incorporated of California, seeks a certificate of public convenience and necessity to operate as a highway common carrier between San Francisco and Oakland via the San Francisco-Oakland Bay Bridge for the purpose of transporting property for Railway Express Agency, Incorporated and for Railroad Companies and their subsidiaries between San Francisco and Oakland under the lawful tariffs of such carriers and including the furnishing of store-door pickup and delivery service within such limits as are now provided in such tariffs.

Applicants' proposed service is to be rendered under contract with the carriers referred to and said contracts are to be filed with the Commission when entered into and made effective.

It is alleged by applicant that the authority herein sought is necessary in the public interest in that the use of the transportation facilities of the new bay bridge will expedite the

handling of property by applicant as underlying carrier for its principals as heretofore referred to.

Pacific Motor Tariff Bureau, representing the greater number of certificated highway common carriers operating between San Francisco and East Bay Points has advised the Commission, through its agent, E. H. Hart, that it will waive objection to the granting of the instant application as amended. In view of this waiver, a public hearing does not appear necessary. The application will be granted.

Railway Express Agency of California, Incorporated, 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 operation by Railway Express Agency, Incorporated of California, of an automotive service as a highway common carrier between the city and county of San Francisco and the city of Oakland, Alameda County, via the San Francisco-Oakland Bay Bridge provided that such service shall be limited to the transportation of property

only for and on behalf of Railway Express Agency, Incorporated, Railroad Companies and their subsidiaries and any other carrier or carriers of the same class, which may have been previously consigned to said carriers with the right to furnish store-door pickup and delivery service in San Francisco and Oakland where provided for in and limited to the tariffs of said carriers now lawfully on file with the Commission

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same is, hereby granted to Railway Express Agency of California, Incorporated, subject to the following conditions:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof, stipulating therein that said certificate is granted as a new and separate right and not as an extension of or consolidation with applicant's present operating right.
2. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate and concurrently make effective on not less than ten days' notice to the Railroad 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 conforming to the certificate herein granted, or rates and rules 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 Railroad 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 obtained.
5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is

leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91

7. Applicant shall file in duplicate with the Commission copies of the contracts entered into with carriers and referred to herein.

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 1<sup>st</sup> day of February, 1937.

Mattie Mason  
Leon Atkisson  
Frank Robinson  
Raymond  
Ray L. Coley  
COMMISSIONERS.