

29517

ORIGINAL

Decision No. 29517

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 WILLIAM A. FAIRFIELD, an individual)
 operating and doing business as)
 METROPOLITAN SHUTTLE SERVICE, for)
 certificate of public convenience and) Application No. 20526
 necessity to operate a limited package)
 delivery service as a highway common)
 carrier between San Francisco and)
 Oakland.)

Neil Cunningham and William F. Cleary, for Applicant.

Athearn, Chandler & Farmer, by Fred G. Athearn, and
 Reginald Vaughan and Douglas Brookman for
 United Parcel Service, Bay District, Protestant.

William W. Hoffman for William M. Smith and Makin F.
 Smith, Jr., doing business as Transbay Motor
 Express Company, Protestant.

E. A. Hart, for Canton Express Company, A. Pasteris,
 doing business as East Bay Drayage and Warehouse
 Company, Interurban Express Corporation, Kellogg
 Express & Draying Co., Merchants Express Corpora-
 tion, Peoples Express Company, United Transfer
 Company, Louis Erickson, doing business as West
 Berkeley Express & Draying Co., Haslett Warehouse
 Company, Protestants.

H. C. Lucas and Guy Hill, for Pacific Greyhound Lines, Inc.,
 Protestant.

Edward Stern, for Railway Express Agency, Inc., Protestant.

Gerald E. Duffy, for Atchison, Topeka and Santa Fe
 Railway Company, Interested Party.

DEVLIN, Commissioner:

O P I N I O N

This proceeding is an application by William A. Fairfield,
 doing business as Metropolitan Shuttle Service, for a certificate

of public convenience and necessity to operate an automotive transportation service as a highway common carrier of parcels limited as to weight and size between San Francisco and Oakland. In paragraph I of the application applicant states;

"That applicant requests permission to establish service as a highway common carrier for the transportation and delivery of packages or parcels weighing not over one hundred (100) pounds and limited as to size as hereinafter specified between San Francisco and Oakland."

At sheet 3, paragraph VI, applicant alleges;

"That your applicant for the present" (emphasis supplied) "proposes to utilize existing common carrier, radial or city carrier service as a feeder and deliverer from and to each of said terminal points in San Francisco and Oakland. That your applicant has made arrangements with Special Delivery Service, a certificated highway common carrier operating within the city of Oakland and to Alameda...for delivery of packages from San Francisco to said points or any intermediate point, and for pickup service of packages from any or all of said points to applicant's terminal point at Oakland. And your applicant has entered into an arrangement with the California Special Messenger Service and Kelly Transfer Company of 137 Turk Street, San Francisco, for the delivery of packages in San Francisco originating in said East Bay points and for pickup of packages in San Francisco destined to be delivered in Oakland..."

At sheet 4, paragraph 2 of applicants brief, we find the following;

"2. Transbay Motor Express operates a pick-up and delivery service between any point in San Francisco and any point in the Eastbay territory; applicant proposes to operate only between two established terminals, one in San Francisco and one in Oakland."

Obviously, it is shown that the position of the applicant as indicated by his application is that "for the present" he contemplates utilizing existing common carriers, radial or city

carriers to perform his pickup and delivery service and later in his brief that he is requesting authority to establish a terminal to terminal service only as above shown. This makes it quite uncertain as to just what applicant's request is-- whether exclusively a terminal to terminal service or a service involving pickup and delivery at either or both San Francisco and Oakland. However, applicant testified (Tr. p. 86) to the effect that he would not give any service except between his base terminals in San Francisco and Oakland. The above quotation from Paragraph VI of the application indicates that definite arrangements had been entered into with those concerns for pickup and delivery services. But the applicant testified (Tr. p. 64) that he had not made any definite arrangements for pickup and delivery services. Accepting the position of the applicant as indicated by the latter statements, my conclusion is that only a so-called shuttle or terminal to terminal service is proposed.

The rates proposed to be charged and the rules and regulations governing the proposed service and time schedules proposed to be followed are set forth in Exhibits A and B. The equipment proposed to be used is set forth in Exhibit C. Exhibits A, B and C are attached to the application and by reference are made a part thereof.

Public hearings were held at San Francisco, testimony heard, and an order of submission made.

Applicant Fairfield testified that he was financially able to purchase the equipment which he proposed to use and to establish terminal depots properly manned and equipped to render a complete service. Applicant Fairfield further testified that

he had been identified with the motor truck industry for a number of years, engaged in selling trucks, but did not indicate that he had ever had any experience as a transportation operator.

In support of the application, the applicant produced twelve shipper witnesses each of whom testified to his desire for the proposed service. Of these, five testified that their understanding was that a pickup and delivery service was to be given. In the absence of such a proposal by the applicant, weight of the testimony of these witnesses was thereby materially lessened. After hearing a description of the services of certain highway common carriers now available between the points proposed to be served herein, six testified that such services were ample for their needs. Three testified that they used trucks of their own supplemented by the common carrier service. In general, no witness of applicant voiced any dissatisfaction of consequence with the present services.

David H. Minto testified that his company (Bausch and Lomb Optical Company) had lost a single sale by reason of inability to make delivery within a limited time. In this particular case the shipment was made via United States Parcel Post. This witness also expected a pickup and delivery service which is not proposed herein.

Alfred E. Meyer, while testifying that the proposed service would be a benefit to his business, declared that he experienced no difficulty in getting shipments across the bay. After hearing a description of certain transbay services, he further stated (Tr. p. 369) that if as many as three round trips

each afternoon were given by as many as two carriers such service collectively would be satisfactory for his needs and requirements.

M. A. Sherritt testified that the proposed service would be of great benefit to his company (Moore Machinery Company) for handling small rush shipments. He testified that a scheduled service of greater frequency for the transportation of light packages would meet the needs of his company, although he could not state wherein a more frequent service than that which is now available is necessary in his company's business. He had no specific complaint in regard to the general adequacy or otherwise of the transbay service now available. One interesting circumstance in connection with the testimony of this witness, as well as that of most of the other witnesses for applicant, is that none has ever made any inquiry of this Commission in regard to the various carriers' services available in the area proposed to be served by the applicant herein. It apparently never occurred to these witnesses engaged in traffic management that the facilities of this Commission are available to the public in all matters of rates, services, schedules, etc. of common carriers as well as the adequacy thereof.

George A. Culbert, western director of traffic of General Electric Supply Corporation, testified to but one failure of transbay service for his company. The scheduled service proposed by applicant appealed to this witness but in connection with the use thereof his company would expect a pickup and delivery service which is not proposed. Upon hearing a description of presently available transbay parcel services, he

stated that such services, in practically all cases, would fill his company's transportation requirements.

The application was protested by the following thirteen carriers:

United Parcel Service Bay District,
Transbay Motor Express,
Canton Express Company,
East Bay Drayage and Warehouse Company,
Interurban Express Corporation,
Kellogg Express & Draying Co.,
Merchants Express Corporation,
Peoples Express Company,
United Transfer Company,
West Berkeley Express & Draying Co.,
Haslett Warehouse Company,
Pacific Greyhound Lines, Inc.,
Railway Express Agency, Inc.

Protestants did not produce any witness who was a shipper or receiver of freight. They did, however, present exhibits and testimony of witnesses showing and describing the present available services between the points involved herein. Exhibit No. 2 is a printed time schedule of Pacific Greyhound Lines, Inc. which shows fourteen daily round trips between San Francisco and Oakland between the approximate hours of 5 o'clock a.m. and midnight for the transportation of packages which do not exceed 100 pounds each in weight. This service is a terminal to terminal service only and all packages must be transported on passenger stages. However, there is no limitation as to the number of packages or shipments which may be so transported. Exhibits Nos. 3 to 7 inclusive show the various bay cities and transbay services performed by Railway Express Agency, Inc., an express corporation, operating over the lines of Southern Pacific Company, Atchison, Topeka and Santa Fe Railway Company, Western Pacific Railroad Company and

Sacramento Northern Railway Company between San Francisco and East Bay points. Exhibit No. 7 shows approximately thirty-seven eastbound and thirty-six westbound, daily or daily except Sundays and Holidays, schedules between the hours of 5 o'clock a.m. and midnight. Of these fourteen eastbound and seventeen westbound are between the hours of 5 o'clock a.m. and noon time. This company affords a complete pickup and delivery service in both San Francisco and Oakland. In the case of rush shipments, patrons of this company may call at the terminal depots and make or receive delivery of shipments. S. M. Heck, superintendent of operations for Railway Express Agency, Inc., testified that shippers and receivers of express may have terminal to terminal service as often as every twenty minutes during the day until 7 o'clock p.m. and that such service is frequently used by the shipping public. Exhibit No. 3 shows that in order to provide pickup and delivery service in San Francisco one hundred and forty-six vehicle units are normally required. Exhibit No. 4 shows that thirty-two motor units are used to provide a similar service in Oakland.

L. Friedman, vice president and general manager of Kellogg Express & Draying Co., testified that his company is operating with approximately one hundred and two pieces of automotive equipment for the pickup, transportation and delivery of property between San Francisco and East Bay points, that freight picked up before 1 o'clock p.m. in San Francisco is delivered to East Bay districts the same afternoon. This witness also testified that a terminal to terminal service between San Francisco and Oakland may be had at any time during the day as such terminals are never closed. Witness Friedman further

stated that he had known of instances when consignees had received freight from the Oakland terminal as late as 2 o'clock in the morning. He further testified that from three to five shipments a day are made by shippers who deliver such shipments to his company's San Francisco terminal when an expedited service to the Oakland terminal is desired. The record shows that the trucks of this company do not operate on regular schedules but are dispatched as rapidly as loaded. Witness Friedman further testified that the vehicle capacity of his company is considerably in excess of the present transportation requirements.

Frank Himmelman, manager of United Transfer Company, testified as to the transportation services afforded by his company. V. S. Rasmussen, superintendent of transportation for Interurban Express Corporation and F. M. Mott, general manager of Merchants Express Corporation, testified as to the services of such companies between the points herein involved. The record shows that these three transportation companies have approximately two hundred and twenty-five pieces of automotive equipment available for the pickup, transportation and delivery of property between San Francisco and East Bay points which they testified are not being used to capacity.

M. B. Geary, vice president and general manager of United Parcel Service Bay District, testified that his company transports approximately 34,000 packages of merchandise monthly between San Francisco and East Bay points. The average weight of which is approximately 3½ pounds each. In general, he testified that his company's business is that of a parcel delivery service serving all department stores in San Francisco

with one exception. Witness Geary further testified that his company handled the parcel delivery service of approximately 90 per cent to 93 per cent of the retail stores of San Francisco. This witness further testified that his company owns eighty-one pieces of automotive equipment which is greatly in excess of its present needs, that his company had never had any complaints as to the frequency or adequacy of service given. This witness further testified that his company maintains an on-call messenger service for the transportation of small packages not exceeding 25 pounds each in weight between San Francisco and certain East Bay points at a rate of \$1.50.

Makin E. Smith, Jr., member of a co-partnership, doing business as Transbay Motor Express Company one of the protestants herein, testified that his company is engaged in the transportation of property between San Francisco and East Bay points using motorcycles with side-cars as equipment, that four scheduled, daily except Sundays, round trips are made, that a complete pickup, transportation and delivery service is afforded between such points. The record with respect to this protestant shows that while the capacity of the equipment used is somewhat limited, nevertheless, articles weighing as much as 800 pounds might be transported and articles of a length as great as 12 feet had been transported. Elapsed time between pickup and delivery is about two to two and one-half hours. Witness Smith testified that his company had five pieces of equipment available for service which are not being used to capacity.

The record shows that all of the witnesses of protestants testified that no complaints had been made to the protestants in regard to the adequacy of the service afforded. The testimony of the shippers and receivers of freight failed to disclose any inadequacy of the present service or unreasonableness of existing rates of the carriers now serving the territory in question. In fact, such testimony seemed to confirm the adequacy, efficiency, and general satisfaction of such service.

After a careful and comprehensive review and consideration of all of the evidence and factors in this proceeding, I conclude and find as a fact that public convenience and necessity do not require the establishment or operation of the service proposed by the applicant herein. The evidence in the record amply shows that existing carriers are adequately and effectively providing sufficient service between the points involved herein.

I recommend the following form of order.

O R D E R

Public hearings having been held in the above entitled proceeding, testimony taken and an order of submission made;

IT IS HEREBY ORDERED that Application No. 20526 be and it is hereby denied.

The above opinion and order are hereby declared to be the opinion and order of the Railroad Commission of the State of California.

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

Dated at San Francisco, California, this six day of February, 1937.

Matthew M. M.
Leon A. M.
James R. M.
Carl A. M.
Ray L. M.
COMMISSIONERS.