

Decision No. 20000

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of
SOUTHERN PACIFIC GOLDEN GATE FERRIES,
LTD., to abandon its San Francisco-
Vallejo Route.

Application No.
20742.

In the Matter of the Application of W. E.
HIBBITT, for a certificate of Public Con-
venience and Necessity for the extension
of his Motor Truck Line as a highway
common carrier for the transportation of
freight beyond Vallejo, directly into San
Francisco and Oakland, excluding local
traffic between Vallejo, Oakland and San
Francisco and intermediate points, under
the name of Sacramento Motor Transport.

Application No.
20779.

In the matter of the application of San
Francisco and Napa Valley Railroad, a
corporation, for a certificate to operate
a general freight and express service by
motor truck as a common carrier between
San Francisco and Calistoga via Oakland,
California and including Vallejo and Mare
Island, California.

Application No.
20804.

In the Matter of the Application of F. H.
HOLLOWAY, doing business under the firm
name and style of VALLEJO EXPRESS COMPANY,
for permission to change the route over
which he is operating.

Application No.
20814.

In the Matter of the Investigation on the
Commission's own motion into the rates,
fares, rules, regulations, charges, classi-
fications, facilities, practices, con-
tracts, operations, schedules, and account-
ing practices, or any of them of SOUTHERN
PACIFIC GOLDEN GATE FERRIES, LTD.

Case No. 4201.

A P P E A R A N C E S

HARRY S. YOUNG and E. J. FOULDS, for the Southern Pacific Golden Gate Ferries, Ltd., Applicant and Protestant.

JOHN J. O'TOOLE, City Attorney, and DION R. HOLM, Assistant City Attorney, for the City & County of San Francisco.

GEORGE H. HARLAN, for the Golden Gate Bridge & Highway District.

F. M. McAULIFFE and LLOYD W. DINKELSPIEL, for the California Toll Bridge Authority.

U. S. WEBB, Attorney General, by RALPH O. MARRON, for the People of the State of California.

A. E. BAGSHAW, District Attorney, by HAROLD HALEY, Deputy District Attorney, for the County of Marin.

RUSSELL O'HARA, City Attorney, and EZRA W. DECOTO, for the City of Vallejo, Vallejo Merchants Assn., Vallejo Chamber of Commerce, Vallejo Express Co., Solano Produce Co., Monticello Garage, Solano Meat Co., and numerous other merchants in Vallejo, Protestants.

THOMAS M. CARLSON, City Attorney, for the City of Richmond.

GEORGE FOURATT, for the Southern Pacific Golden Gate Ferry Workers.

C. R. SCHWANENBERG, for the City of Alameda, interested party.

FITZGERALD AMES, J. E. MONRO AND W. E. HIBBITT, for Sacramento Motor Transport Company, Protestant in Appl. No. 21237.

F. BERT FERNEOFF, City Attorney, by JOHN W. COLLIER, Assistant City Attorney, for the City of Oakland.

F. M. MOTT, for Merchants Express Corporation, as its interests may appear.

A. S. WILLIAMS, for Southern Pacific Company and Pacific Motor Transport Company.

H. E. SANBORN, as a Stockholder of Southern Pacific Golden Gate Ferries, Ltd.

J. G. HUNTER, Transportation Engineer, of the Railroad Commission's Staff.

J. C. STONE and A. E. GIBSON, for Napa Transportation Co., interested party.

C. E. BROWN, for San Francisco and Napa Valley Railroad Co., and Napa Valley Bus Co., Protestants.

McCUTCHEEN, OLNEY, MANNON & GREENE, by F. W. MIELKE, for The River Lines, Protestant.

HAROLD FRASER, for Valley Express Company, Protestant.

H. W. HOBBS, for Southern Pacific Company, and Pacific Motor Transport Company, Protestant.

JAMES J. BROZ, for Valley Express Company.

LOUIS FRIEDMANN, for Kellogg Express & Draying Company.

McCUTCHEEN, OLNEY, MANNON & GREENE, by F. W. MIELKE, for the Napa Transportation Company, Protestant in Appl. No. 20804.

WARE, COMMISSIONER:

O P I N I O N

The matters in these five proceedings involve:

First, the abandonment by the Southern Pacific Golden Gate Ferries, Ltd., of its ferry service between San Francisco and Vallejo;

Secondly, the future services of the three following common carriers, which hitherto have depended upon, and until the effective date of this order will have depended upon the said ferry service to reach San Francisco, to-wit:

1. W. E. Hibbitt, operating under the fictitious name and style of Sacramento Motor Transport;
2. San Francisco and Napa Valley Railroad, a corporation;
3. F. H. Holloway, doing business under the firm name and style of Vallejo Express Company; and,

Thirdly, the final disposition of Case 4201, which is the matter of the general investigation on the Commission's own motion into all phases of the ferry problem affecting the Bay region.

All of these matters were consolidated for the purpose of hearing with Applications Nos. 21237 and 21297, and Cases Nos. 4204 and 4225. The four matters last specified involve, first, the abandonment of the San Francisco-Oakland (Broadway) and the San Francisco-Richmond ferry service; and, secondly, the inauguration of reduced ferry rates affecting San Francisco-Oakland Pier and San Francisco-Sausalito routes, which were concluded by the Decision of this Commission, No. 29999, dated August 9, 1937.

We shall herein decide the remaining matters above set forth in the order in which they were filed with this Commission.

APPLICATION NO. 20742

Application No. 20742 was filed by Southern Pacific Golden Gate Ferries, Ltd., September 3, 1936, and involves the abandonment of the San Francisco-Vallejo ferry service. By means of this service the communities affected have been furnished transportation of passengers and property since 1896. This matter was exhaustively heard in Vallejo on October 6 and 7, 1936, and in Napa, October 13, 1936. Thereafter and on January 18, 1937, the Commission rendered its Decision No. 29464 in the above entitled matter, denied the said application without prejudice and indicated that:

" , if by June 30, 1937, aggressive and alert management and maintenance of this service by the applicant, shall be attended by further decline in revenue, then abandonment of this service may be reconsidered and the matter brought before the Commission for further ruling."

Said decision set forth an historical analysis of the San Francisco-Vallejo ferry service and stressed the economic importance of this service to the counties of Solano and Napa. Various suggestions were brought to the attention of the applicant in said decision, from which we quote the following:

"In order to compete for automobile patronage, it appears to be desirable that a decrease in the automobile and automobile passenger rates on the Vallejo ferry route be made. Under conditions existing prior to the completion of the Bay Bridge, automobile traffic over the Vallejo ferry route consisted mainly of vehicles foreign to the State of California. Such out-of-State cars usually are travelling for considerable distances, which would render them less inclined to take advantage of small savings in time than would be expected of the short distance traveller.

In these days of high-speed automobile travel on the well improved highways of California, roadside advertising is designed so that the maximum number of thoughts can be conveyed to the rapidly passing motorist in the shortest interval of time. Such a condition warrants considerable thought and study in regard to properly worded and located billboards stimulating vehicular patronage to applicant's ferry service.

Applicant's contention that the new highway known as the American Canyon Cutoff will result in a material diversion of vehicular traffic from the Vallejo ferry route to the highway route via Carquinez Bridge may be reversed with equal force.

This new road affords the automobile and truck a direct saving of six miles and eliminates many sharp turns, numerous hazardous rail crossings and some unfavorable grade conditions. All of these advantages enure to the City of Vallejo and the applicant's ferry terminal therein with direct aim. The Commission has knowledge of an enormous movement by truck of perishable fruits and vegetables originating in the valley and delta regions north and east of this Cutoff and destined to the 4 A.M. San Francisco wholesale market. This traffic commences with asparagus in January and continues in great volume and with varying varieties of crops until November. The aggressive exploitation of this field of patronage by applicant, in view of these recent highway improvements, might result in increased net operating revenues . . .

In the light of improving business conditions in general and increased revenues as shown by the foregoing tabulation, now is not the time to urge abandonment of applicant's Vallejo ferry route. To the contrary, with the favorable recovery already experienced, every effort should be exerted to preserve for itself the patronage now served by this route and to attract additional business by exploiting to the fullest extent the advantages inherently vested in the ferry route. Rate reductions should be given immediate consideration as an important means to such an end."

Similarly the Commission stressed its notice to the communities principally affected by said service of the importance of public appreciation and patronage for this service. In this connection we quote further from the decision:

"There has been considerable opposition to the abandonment of this ferry service by various persons in and in the vicinity of Vallejo, Napa, St. Helena and intermediate towns, as well as the municipalities themselves. As has been mentioned before, the geographical location of the territory served renders the Vallejo ferry service a very valuable asset to the area involved.

In their arduous endeavor to retain this valuable service now enjoyed, those persons benefiting by that service should not overlook their obligation in justification of their demands to patronize it to the fullest extent in order that they may contribute their part toward ensuring a compensatory return to the carrier. Those persons involved are provided with a transportation service, the perpetuation of which they should jealously guard and they should recognize their responsibility as well as that of the carrier, in making possible its continuance."

On June 3, 1937, applicant filed with this Commission its written request asking that the matter be set down for further hearing, as applicant was continuing to operate this route at a loss. On June 9, 1937, this Commission, in response to this written request, ordered:

" that submission in the above proceeding is set aside and the matter reopened for further hearing for the purpose of receiving additional evidence and to determine whether Decision No. 29464 should be revoked, altered or amended in any particular,"

For a more complete history of the operation of this ferry route, we again refer to our Decision No. 29464, supra. It is sufficient for the purpose of this decision to analyze the downward progress of this operation during the last ten years. In 1927 the pioneers of this enterprise, the Hatch interests, sold the line to the Golden Gate Ferry Company, the predecessor of the present company. In May, 1927, the Carquinez Bridge was built and the Berkeley ferry opened. Immediately thereafter, increasing numbers deserted these boats and adopted the speedier method of driving their own cars between Vallejo and Bay points, and the company felt the devastating severity of the competition of the privately owned automobile.

During the following years the travelling public experienced the opening of the Sears Point Toll Road, the American Canyon Cut-off, the San Francisco-Oakland Bay Bridge and the Golden Gate Bridge. All of these vitally important innovations have struck deep into the tap-root of the ferry patronage. The recent great increases in "for-hire" carrier and private carrier trucking in Solano and Napa Counties and throughout the Sacramento Valley, have further split the available traffic. Recent toll reductions on the lower bay ferries and bridge crossings have resulted in further injury to the ferry situation. The Pacific Greyhound Lines has made enormous inroads into the ferry company's passenger traffic. Prior to the opening of the San Francisco-Oakland Bay Bridge in 1936, this bus line operated some 15 round trips per day between San Francisco and Vallejo. Since the opening of this bridge the Greyhound service has been increased to 20 or more round trips daily and offers the public a running time of one hour and fifteen minutes as compared to the boat schedule of one hour

and forty-five minutes which is maintained with great difficulty and irregularity.

Immediately following our Decision of January 18, 1937, No. 29464, supra, and responsive to the suggestions therein contained, the company added one round trip daily to its schedule, reduced its rates, and engaged in an extensive advertising campaign designed to recoup its lost traffic and revenue. These reduced rates are hereinafter set forth in comparison with the rates previously charged.

<u>Passenger Fares</u>	<u>Previous Rates</u>	<u>Reduced Rates</u>
Adults, One-Way	\$ 0.70	\$ 0.50
Adults, Round-Trip	1.20	.75
Children, One-Way	.42	.30
Children, Round-Trip	.60	.50

Automobiles

Auto and Driver	1.50	1.00
Auto and Driver and 1 Passenger	1.65	1.15
Auto and Driver and 2 Passengers	1.80	1.30
Auto and Driver and 3 Passengers	1.95	1.45
Auto and Driver and 4 Passengers	2.10	1.60

Commercial and delivery automobiles and light trucks weighing under 3,000 pounds were previously handled under truck rates but under the reduced tariffs they have been charged the same rates as quoted above for automobiles.

Trucks Weighing 3,000 Lbs. to 14,000 Lbs., Including Combination Type Vehicles, and Including Fare of Driver.

	<u>Previous Rates</u>	<u>Reduced Rates</u>
One-Way	\$ 2.20	\$ 2.20
Round-Trip	4.40	3.00

Trucks Weighing Over 14,000 Lbs.

One-Way	2.70	2.20
Round-Trip	5.40	3.00

The fare for one or two additional helpers on trucks 25¢ each, one-way.

<u>Trailers Attached to Trucks</u>	<u>Previous Rates</u>	<u>Reduced Rates</u>
One-Way	\$ 1.10	\$ 1.00
Round-Trip	2.20	1.50

Substantial reductions were made in freight rates. The previous rate on trucks of \$1.10 per ton was reduced to \$0.90 per ton. To further stimulate truck and freight traffic, the following tariff was adopted:

			Reduced Rates
100 Pounds to 10,666 Pounds			90¢ Ton
10,666 " " 12,000	Flat Charge	\$4.80	
12,000 " " 15,750			80¢ Ton
15,750 " " 18,000	Flat Charge	\$6.30	
18,000 " " 20,570			70¢ Ton
20,570 " " 24,000	Flat Charge	\$7.20	
24,000 " And Over			60¢ Ton

The experience of the trial period ending June 30, 1937, demonstrate that rate reductions were necessary to meet the competition of the new bridges with their flat fifty-cent charge for automobile and five persons. The history of the passenger vehicle traffic by months is indicated below:

NUMBER OF PASSENGER VEHICLES HANDLED

	<u>1936</u>	<u>1937</u>
January	1,950	941
February	1,904	1,599 (Rates reduced 2/13/37)
March	2,341	2,538 (R.T. added March 24th)
April	2,493	2,655
May	3,495	3,540
June	3,494	2,610 (15) (Golden Gate Bridge opened 5/28/37)

The sharp response of auto traffic to the rate cuts in March and April, 1937, is very apparent.

The fact that passenger vehicle rates, as they appear in the foregoing reduced structure, have been no lower than was necessary to meet the competition of the Carquinez Straits Bridge and the San Francisco-Oakland Bay Bridge, appears to be further demonstrated. The ferry rates, for a car and two passengers, from Vallejo to San Francisco are \$1.15, as compared with the total charge of \$1.30 by way of these two bridges, and \$0.90 by way of Sears Point Toll Road and the Golden Gate Bridge. The ferry loses its rate advantage in the case of a car and five passengers for its rate of \$1.60 each way is identical

with the costs incurred via Carquinez and San Francisco-Oakland Bay Bridges. We must conclude that in view of the great time saving and convenience elements that attach to the latter route via these bridges, the ferry rate appears to be none too low.

The result of the reduced rates on trucks and freight brought substantial increases in both volume and revenue resulting therefrom. This traffic would have been lost to the company in the event of increased rates.

The net result of this trial period ending June 30, 1937, discloses average monthly losses of about \$10,000 before any allowance for profit. The required transportation revenues to sustain this Vallejo route, eliminating any allowances for profits, income taxes, or dismissal wages, is \$30,321 per month. This amount will permit the company to "break even". A comparison of this required minimum revenue with actual revenues received is shown below.

			Transportation Revenues	Minimum needed Transportation Revenues
			<hr/>	<hr/>
Aver. per month	1935		\$21,925	-
" " "	1936		22,499	-
January	1937		12,340	-
February	"		13,434	-
March	"		18,896	-
April	"		19,196	-
May	"		23,098	-
June	"		20,692	\$30,321

The net loss from operations before depreciation and obsolescence, for the four months following January 1, 1937, is \$37,461.87. This amount is to be effectively compared with the sum of \$34,121.82 which comprised the total net loss from operations before depreciation and obsolescence charges for the entire year 1936.

The following is a comparison of foot passenger traffic and revenues for the months of March, April, and May, during the years 1936 and 1937. It indicates that while the effort to in-

crease this traffic yielded 7,998 more single trips in the 1937 period than were obtained in 1936, the revenues declined by \$4,528.

<u>One Way Trips</u>		<u>Round Trips</u>	
1936	3,428 at 90¢ ea. = \$3,085	1936	14,277 at \$1.20 ea = \$17,132
1937	5,572 at 50¢ ea. = \$2,786	1937	17,204 at .75 ea = \$12,903
Incr.	2,144	Incr.	2,927
	Decr. \$ 299		Decr. \$ 4,229

SUMMARY:

<u>Total Revenues</u>		<u>Weighted Average fare per single trip.</u>
1936 - O.W. + R.T. (\$3,085 + \$17,132)	= \$20,217	63.2¢
1937 - O.W. + R.T. (\$2,786 + \$12,903)	= \$15,689	39.3¢
Decrease		\$ 4,528

Volume of Traffic

1936 - 3,428 +2 (14,277)	= 31,982 single trips
1937 - 5,572 +2 (17,204)	= 39,980
Increase	7,998

There is a distinction between operating possibilities and the probable success of the San Francisco-Vallejo service compared with the San Francisco-Oakland Pier and San Francisco-Sausalito services. In Decision No. 29999 the Commission prognosticated the likelihood of the latter services operating profitably with rates approximating 50% of the competitive bridge rates. This conclusion was reached notwithstanding the demonstrated failure of the San Francisco-Vallejo service to operate profitably under reduced rates. These distinctions exist: first, there is a far greater reservoir attributable to the lower Bay ferries than is available to the Vallejo route; secondly, the lower Bay services propose to operate upon a much more frequent headway than the Vallejo service; and, thirdly, the Oakland Pier and Sausalito runs require approximately 20 and 25 minutes respectively as against the hour and three quarters to more than two hours required in the San Francisco-Vallejo run. Viewed in the light of these sharply contrasting conditions, we can readily understand why the Vallejo service has

failed to operate profitably under reduced rates, and at the same time believe that the Oakland Pier and Sausalito service may profitably endure.

The City of Vallejo, throughout this proceeding, has protested the abandonment of this service and has charged the company with deliberate failure. Several of the company's employees testified in refutation of this charge and stressed their claim that the company had exhausted every effort to accomplish the profitable continuation of this enterprise. It is no longer availing for the Commission to make further comments or suggestions relative to the future management of this transportation agency. The successive and increasing losses of this company demonstrate the final impossibility of any further continuation of its profitable service. During the course of the hearing the presiding commissioner asked the City Attorney and representative of Vallejo this question:

"Mr. O'Hara, it might be well for you to make a statement with reference to the City of Vallejo that you are representing. What is the position of the City of Vallejo?"

Mr. O'Hara: Mr. Commissioner, the City of Vallejo is thoroughly in accord with any policy that states, in honesty and fairness, that if this line up there can not be economically operated, that it should go off. We are willing to concede that we can not possibly come in and say to this Commission that this company should proceed to operate a line if it can not be economically justified, Mr. Commissioner." (Tr. p. 508.)

The conclusion is inescapable that any further operation of this service will result in losses that would add further peril to the present financially strained condition of the company, and any continuation of such unprofitable service would impose additional burdens upon the future operations of the San Francisco-Oakland Pier and the San Francisco-Sausalito ferry routes, the continuation of which services this Commission has recently held to be in the public interest. Therefore, the abandonment of this San Francisco-Vallejo route is now wholly justified and inevitable.

The service which it has rendered since 1896 must give way to more popular and modern means available to the transportation of persons and property.

The present activity of Pacific Greyhound Lines has already been disclosed herein.

During the progress of this hearing the entire record in the matter of Application No. 20805 was incorporated into this record by reference. This last numbered matter comprises the application of Napa Valley Bus Company, a corporation, to extend its operation of vehicles upon the public highways of California, as a common carrier of passengers, express, mail and baggage, between Calistoga and San Francisco via Napa, Vallejo and the San Francisco-Oakland Bay Bridge. This request was filed October 10, 1936, and was contingent upon the abandonment, pursuant to the permission of this Commission, by the Southern Pacific Golden Gate Ferries, Ltd., of the San Francisco-Vallejo ferry service. In said application it is stated "applicant proposes to extend its present operations between Calistoga in Napa County and Vallejo in Solano County (including Vallejo) to San Francisco, California, but not to offer service to traffic originating at or destined to points between Vallejo, California and San Francisco, California." Heretofore said Bus Company has transported passengers between the Vallejo ferry terminus and Calistoga and intermediate points, and said passengers have enjoyed the joint facility services of the ferries between San Francisco and Vallejo. Upon the abandonment of these ferry services, which abandonment is now imminent, it becomes patent that these passengers would need the extension of this bus service between Vallejo and San Francisco via the Bay Bridge. Simultaneously with the rendition of this order the Commission has rendered its decision and order in the matter of Application No. 20805 wherein this Commission has granted a certificate of

public convenience and necessity to said Napa Valley Bus Company thereby affording extended highway transportation for passengers, express, mail and baggage beyond Vallejo and into San Francisco via the San Francisco-Oakland Bay Bridge.

In complete disposition of the problem affecting the transportation of freight, via the San Francisco-Vallejo ferries, the following sections of this opinion and order appear sufficiently determinative and conclusive. Therefore, in granting permission unto Southern Pacific Golden Gate Ferries, Ltd., to abandon and wholly discontinue its ferry operations between San Francisco and Vallejo, we feel that all of the just and reasonable requirements of the travelling and shipping public heretofore affected by this ferry route are sufficiently protected and that public convenience and necessity is not violated as the result of this abandonment.

- - - - - o o - - - - -

APPLICATION NO. 20779

W. E. Hibbitt, operating under the fictitious name of Sacramento Motor Transport, the applicant herein, is a certificated common carrier of freight operating by trucks upon the highway between Sacramento and Vallejo. By arrangement with the Southern Pacific Golden Gate Ferries, Ltd., operating between San Francisco and Vallejo, and between San Francisco and Oakland (foot of Broadway), the applicant has handled increasing volumes of freight moving between San Francisco and Oakland, on the one hand, and Sacramento, on the other hand. The applicant and the ferry company have established joint rates on a parity with those charged by other common carriers operating between Sacramento and the Bay points and have in effect an agreed division of rates for the through movement.

The application involved in this proceeding is predicated upon the contingency of the abandonment of either or both of said

ferry routes, and in the event of any such abandonment, the applicant asks for a certificate of public convenience and necessity to extend his common carrier truck service over the highways between Vallejo and San Francisco via Carquinez Bridge, Oakland, and the San Francisco-Oakland Bay Bridge, or at the discretion of the applicant via Southern Pacific Golden Gate Ferries, Ltd., between San Francisco and Oakland Pier. In actuality such a certificate would enlarge applicant's existing certificated rights so as to include a service for the transportation of freight between Sacramento, Dixon, Vacaville, Suisun, Fairfield and Cordelia, on the one hand, and San Francisco and Oakland, on the other hand.

In view of the previous order of this Commission authorizing the abandonment of the said ferry service between San Francisco and Oakland (foot of Broadway) in Decision No. 29999, supra, and the within determination and order of this Commission ordering the abandonment of the said ferry service between San Francisco and Vallejo, it becomes necessary to determine whether or not public convenience and necessity justify the establishment of the highway common carrier truck service as proposed by applicant.

Southern Pacific Company, Pacific Motor Transport Company and The River Lines have joined issue with the applicant upon the question of this certificate. This is the first time that this Commission has ever been asked to determine whether or not the public interest justifies and requires the inauguration of a highway common carrier truck service for the transportation of freight between Sacramento, Dixon, Vacaville, Suisun, Fairfield and Cordelia, on the one hand, and San Francisco and Oakland, on the other hand. In view of the serious controversy which has arisen over this issue, it becomes our duty to scrutinize this record for the answer to this question: Has applicant made a sufficient and convincing

showing that public convenience and necessity warrant the granting of a new certificate to render this new transportation service?

A revelation of the history and the development of the service of applicant and his predecessors affords help in arriving at the proper answer to this question.

The certificate which is now held by the applicant was originally granted by the Commission to C. B. Locklin by Decision No. 15142, dated July 3, 1925, in Application No. 10963. The line has been operated from this date under the fictitious name of Sacramento Motor Transport. The Locklin application requested permission to establish service by motor truck for the transportation of freight between Sacramento, Vallejo, Crockett and intermediate points, except Davis. It is significant that in the order granting this certificate the Commission found no justification for extending this service to Crockett, a town on the Southern Pacific Company's main line between Sacramento and Oakland and situated between Vallejo and Oakland. A certificate of public convenience and necessity was issued to Locklin authorizing the operation "under the fictitious name of Sacramento Motor Transport, of an automobile truck line as a common carrier of property between Sacramento and Vallejo and intermediate points, excluding Davis and all points between Davis and Sacramento, via Davis, Dixon, Vacaville, Suisun, Fairfield and Cordelia." No reference was made in either the application or the order to an interline haul beyond Vallejo, and the certificate was granted solely upon the consideration that the public interest justified the same, viewed from the single standpoint of traffic moving between the points to which the operative rights were restricted.

On January 13, 1926, the Commission issued its Decision No. 15839 in Application No. 12387 authorizing C. B. Locklin to sell and R. W. Rogers to purchase the operative rights and equipment of

said common carrier for the purchase price of \$2500, of which the sum of \$500 was said to represent the value of certain furniture, fixtures and stationery located in the terminal occupied by the said Locklin at Front and R Streets, Sacramento, and \$2,000 was named as the value of the operating right.

On December 31, 1932, the Commission issued its Decision No. 25516 in Application No. 13602 authorizing R. W. Rogers to sell and W. E. Hibbitt (the applicant herein) to purchase the operative rights and equipment of the said common carrier for the purchase price of \$2500 of which the sum of \$575 was declared to represent the value of terminal equipment, \$1,000 was declared to represent the value of rolling stock equipment and \$925 declared to represent the value of the operating right as a going business.

The record is silent as to the extent of interline movement of freight by Locklin over the San Francisco-Vallejo ferry. It is sufficient to say that Locklin filed such interline rates and his successor, Rogers, continued them in effect.

A portrayal of the status of the Rogers operation, January 1, 1933, the time Hibbitt acquired the same, discloses a badly run-down and poorly managed freight service. Rogers had failed to keep his tariff structure in line with competition. He had charged for every commodity on the basis of the classification, without regard to group commodity rates. He drove his own equipment, consisting of one antiquated truck and trailer, the truck having gone some 300,000 miles. That he had failed to perform the type of service which the public demanded was evidenced by the steady decrease in the freight revenue which he received.

At the time Hibbitt purchased the line he was the owner and manager of the Lawrence Warehouse Company in Sacramento and performed a pickup and delivery service for The River Lines at this point. The record shows that he was very familiar with all of

the shippers patronizing The River Lines and that he recognized the possibility of developing interline traffic between Sacramento Motor Transport and San Francisco-Vallejo ferry. (1) The record further shows that Hibbitt purchased this line determined to inaugurate group commodity rates and place his rate structure on a parity with the rates of other common carriers serving San Francisco and Sacramento. He determined to develop this interline traffic by means of such rate structures. Active solicitation of traffic moving between Sacramento and Bay terminals was undertaken immediately upon the purchase of the line. The success of this theory is demonstrated by the tremendous increase year by year of the Hibbitt patronage and revenue.

Before tabulating this skyrocket growth of the Hibbitt operation it is appropriate to punctuate right here that the record discloses through the applicant's witness and traffic manager, J.E.

(1) We quote from the transcript, p. 960, 1-10 et seq., the following questions by applicant's attorney and answers by The River Lines' traffic manager:

MR. AMES: Now, Mr. Anderson, by any chance if the Sacramento Motor Transport application should be denied and thereby prevented from continuing to serve the shipments received at Sacramento and Oakland, to what extent -- serving San Francisco and Oakland -- to what extent do you feel that The River Lines would participate in that traffic that had been theretofore handled by the Sacramento Motor Transport in connection with the Southern Pacific Golden Gate Ferries to Vallejo?

A. I feel that we would recover the major portion of that tonnage.

Q. Why?

A. Because I think that was tonnage which was primarily handled by The River Lines. I might state this, that in the early part of 1932 the Lawrence Warehouse Company which Mr. Hibbitt is also the manager and owner of, performed for us a pickup and delivery service. Naturally, he was very familiar with all of our customers, and when he inaugurated an improved Sacramento Motor Transport service, it is the natural presumption that he took a great many of our customers because he knew just where to look for the business."

Monro, that Hibbitt entered into these joint rate and interline arrangements with the ferry company fully realizing that any traffic moving thereunder did not fall within the scope of his certificated rights which he had acquired by purchase from Rogers, and that these joint rates and interline arrangements were subject to termination at any time by the repudiation of the same or the abandonment of service by the ferry company. Therefore, in the development of this interline business applicant embarked upon such course with full knowledge that if he should be deprived of this ferry connection at Vallejo he would be required to secure additional certificated rights predicated upon public convenience and necessity to perform a highway common carrier truck service between San Francisco and certificated points upon his line.

The growth of applicant's interline business occasioned his filing joint tariffs with the Commission on August 23, 1933, naming rates with the Southern Pacific Golden Gate Ferries, Ltd., between Sacramento and Oakland via San Francisco. Aroused by the anxiety of certain common carriers, the Commission issued its order of investigation and suspension of these rates and thereafter and on the 25th day of November, 1933, by Decision No. 26584, in Case No. 3668, the Commission dismissed the investigation and authorized these joint rates. In said decision the Commission distinguished between joint rates affecting connecting highway carriers and those between highway carriers and a rail or water carrier. The greater flexibility of highway carriers required the adoption by the Commission of a restricted policy with regard to such carriers entering into joint rates. We have followed the policy that any joint rates between highway carriers must be first and formally approved by order of this Commission. In said decision the Commission enunciated the principle of permitting tariff filings providing for truck ser-

vice at joint rates over lines of water and highway carriers, and over the lines of rail and highway carriers. In part the decision said:

"We are of the opinion that the policy pursued by the Commission in the past should not now be altered. As between motor truck carriers themselves, joint rate agreements must be preceded by formal application and express authority granted. But when a carrier subject to the Public Utilities Act desires and effects a rate agreement with a highway carrier, we are of the opinion that neither should be prohibited from filing or concurring in a joint tariff.

The restrictive policy heretofore announced in respect to highway carriers was premised upon the theory that the certificate granted to each was expressly limited to the operation of trucks between fixed termini only, and since such highway operations may be expanded or reduced with great facility, a restrictive policy should be adopted with regard to these carriers which is not applicable to carriers of another class. It was held, accordingly, that a joint through rate agreement between two highway carriers was in effect a linking up of the operative rights of each.

But this policy need not be extended to prohibit a certificated highway carrier from participating in traffic, originated by a carrier of an entirely different class where, obviously, no enlargement of the physical service of either is possible. We conclude, therefore, that a rate agreement between a water carrier and a highway carrier does not constitute an enlargement of the physical service or the expansion of the operative right of either. (Emphasis supplied.)

The effect of developing this interline traffic between Sacramento and San Francisco and Oakland is expressed in the tremendous growth of tons and revenue of freight traffic interchanged between Sacramento Motor Transport and the ferry company. The following table is gleaned from an analysis of Exhibit 2., offered by L. J. Masson, Assistant General Auditor of Southern Pacific Golden Gate Ferries, Ltd.:

GROWTH OF TONS AND REVENUE OF FREIGHT TRAFFIC
INTERCHANGED BETWEEN SAN FRANCISCO-VALLEJO FERRY WITH
SACRAMENTO MOTOR TRANSPORT FOR THE YEARS 1931 - 1936
INCLUSIVE.

<u>Year</u>	<u>Tons</u>	<u>T O T A L</u>	
		<u>Revenue Divisions</u>	
		<u>S.P.G.G.F.Ltd.</u>	<u>S.M.T.Co.</u>
1931	1 436	\$ 2 671 69	\$5 474 68
1932	699	1 343 77	2 757 44
1933*	1 792	3 004 12	10 175 39
1934	4 330	7 299 57	24 830 06
1935	7 468	12 101 91	42 171 92
1936	9 096	15 091 64	54 065 44

*Hibbitt, applicant herein, acquired this service
January 1, 1933.

It is significant to note in the foregoing table the decline in tonnage and revenue during the last two years of the Rogers operation. This decline is in sharp contrast with the extreme increase experienced by Hibbitt since his acquirement of the line, January 1, 1933, which was followed by his intensive solicitation of interline traffic.

Exhibit 5. discloses the growth of tonnage since the Hibbitt operation commenced on January 1, 1933. The following data is abstracted from this exhibit:

TONNAGE GROWTH OF HIBBITT OPERATION

<u>Period</u>	<u>Local</u>	<u>Interline</u>	<u>Total</u>	<u>Percentage of Local to Total</u>
Year 1933	625	1792	2417	.258
Year 1934	717	4329	5046	.142
Year 1935	755	7559	8314	.090
Year 1936	889	9096	9985	.089
12 Months Ending May 31, 1937	845	9788	10633	.079

Exhibit 3. discloses Hibbitt's revenue increases since January 1, 1933. The following data is abstracted from this exhibit:

REVENUE GROWTH OF HIBBITT OPERATION

<u>Period</u>	<u>Local</u>	<u>Interline</u>	<u>Total</u>	<u>Percentage of Local to Total</u>
Year 1933	\$3,546.05	13,279.72	\$16,825.77	.217
Year 1934	4,015.59	32,683.86	36,699.45	.109
Year 1935	4,057.67	55,876.44	59,934.11	.067
Year 1936	4,740.08	70,971.22	75,711.30	.062
12 Months Ending May 31, 1937	\$4,574.79	\$77,179.31	\$81,754.10	.055

"Local traffic" referred to herein is that part of the traffic which moves on the Hibbitt trucks between the points specified in the certificate possessed by Sacramento Motor Transport to-wit: Sacramento, Dixon, Vacaville, Suisun, Fairfield, Cordelia and Vallejo. This traffic is distinguished from the far greater volume of interline traffic, handled by said truck line and the San Francisco-Vallejo ferry and which moves between Sacramento, Dixon, Vacaville, Suisun, Fairfield and Cordelia, on the one hand, and San Francisco and Oakland, on the other hand. It is important to note from the two tables hereinabove set forth that local traffic measured in tonnage and revenue has been decreasing in the last two years. This condition exists notwithstanding the fact that said local traffic has been exhaustively and thoroughly solicited and exploited by the Hibbitt operation. In significant contrast with this decrease, the interline traffic, measured in tonnage and revenue, has maintained sharp increases continuously up to the date of the latest data offered in evidence, May 31, 1937.

Exhibit 45 affords a comparison of total interline tonnage handled by Hibbitt between San Francisco and points on Sacramento

Motor Transport service, both east bound and west bound, for the first five months of each of the last five years. The following table depicts this increase in tons as well as in percentage.

HIBBITT INTERLINE SAN FRANCISCO TONNAGE
(First 5 months of each of the last 5 years)

Year	1933	1934	1935	1936	1937
Total Tons	294	1320	1651	2758	3397
% Increase		449%	125%	167%	123%

The following table is a statement of the total interline tonnage handled by Hibbitt between San Francisco and points on Sacramento Motor Transport service, both east bound and west bound, during the past five years.

HIBBITT INTERLINE SAN FRANCISCO TONNAGE
(Last 5 years)

Year	1933	1934	1935	1936	1937
Total Tons	1791	3770	6430	7707	9479
% Increase		210.5%	170.6%	119.9%	123%

The division of interline freight revenue for the twelve months period ending May 31, 1937, was \$18,044.39 to the ferry company, \$59,134.92 to the Sacramento Motor Transport. During this period the local revenue received by Sacramento Motor Transport was \$4,574.79 making a total of \$63,709.71. The percentage of the Sacramento Motor Transport local revenue to its total revenue was 7.1%.

The injurious effect of the Hibbitt operation upon The River Lines is clearly demonstrated in this record. This navigation company, and its predecessors in interest, have furnished a service of freight and passenger transportation by vessel between San

Francisco and Sacramento since 1856. At the present time a satisfactory and adequate service by water is offered by The River Lines, which operates daily between Sacramento and San Francisco, two combination freight and passenger carrying steam vessels, the Delta King and the Delta Queen, and which also operates supplementary Diesel propelled freight boats and barges. The daily departing time of the Delta King and Delta Queen is 6:30 p.m. and these boats arrive at their destination so as to permit early morning deliveries of cargo in Sacramento and San Francisco.

Practically all of the interline freight handled by the Hibbitt operation consists of L.C.L. tonnage. We have hereinabove sufficiently set forth the enormous growth of the Hibbitt tonnage during recent years. In striking contrast Exhibit 48 furnishes the following table which discloses the average tons per month of L.C.L. traffic moving from San Francisco Bay points to Sacramento via The River Lines from January 1, 1932, to June 30, 1937, excluding tonnage handled during strike months.

AVERAGE TONS PER MONTH OF LESS THAN CARLOAD TRAFFIC MOVING FROM SAN FRANCISCO BAY POINTS TO SACRAMENTO VIA THE RIVER LINES FROM JANUARY 1, 1932, TO JUNE 30, 1937, EXCLUDING TONNAGE HANDLED DURING STRIKE MONTHS.

	1932	1933	1934	1935	1936	1937
Average Tons Per Month	3629	3926	3779	3635	3121	1981

It is impossible to say how much of this tonnage that was lost to The River Lines was gained by the Hibbitt operation. Since January 1, 1932, four maritime strikes have adversely affected the service and operation of The River Lines. (2) Moreover the Com-

(2) These strikes occurred May 9, 1934 to July 2, 1934; December 6, 1934 to December 13, 1934; July 2, 1935 to October 4, 1935; October 30, 1936 to February 8, 1937. (From Exhibit 49.)

mission is mindful of the fact that there have been material inroads upon the traffic handled by common carriers by plant facility and contract trucks. It is nevertheless a significant coincident that since January 1, 1933, the date that Hibbitt commenced his operation, The River Lines has lost in L.C.L. tonnage almost exactly the identical tonnage gained by the Hibbitt line. In 1933 and 1934 The River Lines were transporting daily about 150 tons of L.C.L. freight from San Francisco and east Bay points to Sacramento. In 1935 this tonnage had dropped to approximately 140 tons per day. In 1936 this tonnage further dropped to approximately 120 tons per day. This is an average loss of approximately 30 tons per day. Since 1932 Exhibit 5 discloses that the Hibbitt line increased from 697 tons handled in 1932 to 9096 tons handled in 1936, a daily increase of approximately $27\frac{1}{2}$ tons. The conclusion is inescapable that a substantial part of The River Lines' loss became the Hibbitt line's gain.

In analyzing this respective loss and gain it should be borne in mind that practically all of the Hibbitt traffic, being L.C.L. traffic, moves under higher rates than carload traffic. The fact is that Sacramento Motor Transport has carload rates on only a negligible number of commodities and the record is silent as to the volume, if any, of the carload tonnage moved by this line. It is fair to conclude that applicant's operations have been confined almost entirely to the more profitable L.C.L. traffic.

The evidence discloses that the average revenues of the Hibbitt interline traffic during the twelve months period ending May 31, 1937, was \$7.82 per ton. This figure is derived by dividing Hibbitt's total interline revenue, \$77,179.31, as found in Exhibit No. 8, by the number of his interline tons aggregating 9788, found in Exhibit No. 5. If we were to compute the revenue per ton of the interline freight originating in Sacramento it would produce a

necessarily higher figure.

The Sacramento Motor Transport presents the following operating expenses:

Operating expenses to Vallejo exclusive of pickup and delivery	\$34,056.25
Anticipated added expenses of haul from Vallejo to San Francisco for one year	17,914.55
Pickup and delivery expenses for 1936	<u>19,276.30</u>
Total annual Hibbitt operating expenses	\$71,247.10

In sharp contrast with these expenses the following table discloses annual gross revenue and net profit of the Hibbitt line for the four years ending 1936:

<u>Year</u>	<u>Interline Tonnage</u>	<u>Interline Gross Revenue</u>	<u>Net Profit of Hibbitt Line</u>
1933	1792	\$13,279.72	\$ 324.75
1934	4329	32,683.86	2,154.79
1935	7559	55,876.44	3,569.99
1936	<u>9096</u>	<u>70,971.22</u>	<u>4,418.27</u>
Total	22,776	\$172,811.24	\$10,467.80

The record contains no evidence that would tend to prove that the service afforded by The River Lines is unsatisfactory or inadequate. Its service between Sacramento and the Bay points

is overnight and affords a next morning delivery. This service is substantially comparable to that which is proposed by Eibbitt. The recent innovation of so-called flats or skids in handling the traffic of The River Lines is conceded to afford the shippers definite advantages. Large volumes of traffic are handled upon these flats, being loaded at the point of origin and remaining thereon until final delivery at the store door. The popularity and convenience of this device are established facts in this record.

Viewing all the testimony presented in behalf of all the protestants herein the conclusion is inescapable that there is sufficient common carrier services between San Francisco and Oakland, on the one hand, and Sacramento, upon the other.

As to the adequacy of the said existing competitive common carriers, Exhibit No. 18 shows 22 daily (except Sundays and holidays) east bound schedules originating in San Francisco and Oakland and serving Sacramento. These services are rendered by Southern Pacific Co., Pacific Motor Transport Co., The River Lines, Western Pacific Railroad and Sacramento Northern Railway. The closing hours for receiving shipments, in both San Francisco and Oakland, is in every instance 5:45 p.m., excepting as to shipments over The River Lines originating in Oakland where the closing hour is 3:30 p.m. The availability of all such shipments at Sacramento is 7:00 a.m. first morning, with the exception of ten daily Railway Express Agency schedules between San Francisco and

Sacramento via Oakland which provides service on the same day the shipment is made and within a few hours from the time the shipment is received. It is sufficient to say that the west bound traffic from Sacramento to Oakland and San Francisco is comparable to the east bound traffic just described.

The existing service of Southern Pacific Company and Pacific Motor Transport Company were described by their respective operating witnesses, Hennessy and Hyde. Whereas applicant maintains terminals only at Sacramento and Vallejo, Southern Pacific Company maintains terminal and agency facilities at Sacramento, Dixon, Vacaville, Fairfield-Suisun, Cordelia and Vallejo, and the Pacific Motor Transport Company renders a store door pickup and delivery service at all of said points last specified, except Cordelia.

Southern Pacific Company receives freight at San Francisco and Oakland daily (except Sunday and holidays) until 5:45 p.m. and this freight is available the next morning for delivery in Dixon at 7:15 a.m., in Vacaville at 8:00 a.m. and in Suisun-Fairfield at 8:30 a.m. In addition freight is available at Vallejo at 8:00 a.m., first morning from the Bay cities, which is a service that is not proposed by applicant.

For west bound shipments, Southern Pacific's closing times are: Dixon, 3:15 p.m.; Vallejo, 4:00 p.m. (not proposed by applicant); Vacaville, 5:00 p.m.; Suisun-Fairfield, 5:00 p.m. and Cordelia, 5:15 p.m. All of these shipments are available for first morning delivery in San Francisco and Oakland at 8:00 a.m.

The service proposed by Hibbitt consists of two round trips; (daily except Sundays and holidays) one round trip leaving Sacramento at 10:30 a.m., arriving in San Francisco, via Vallejo and Oakland at 6:00 p.m. and departing from San Francisco at 7:00 p.m. and returning to Sacramento, via Oakland and Vallejo, at 11:30 p.m;

the other round trip (daily except Saturdays, Sundays and holidays) leaving Sacramento at 5:00 p.m. and arriving in San Francisco, via Vallejo and Oakland, at 9:45 p.m., departing from San Francisco at 10:45 p.m. and returning to Sacramento, via Oakland and Vallejo, at 3:30 a.m.

The rates of The River Lines and the other above specified carriers which are competing with the Sacramento Motor Transport are the same as those proposed by Hibbitt.

In his attempt to establish public convenience and necessity Hibbitt has offered six petitions signed by 425 shippers during September, October and November, 1936. The only evidentiary effect of this petition is to show the extent of patronage of existing service. Similarly he offered Exhibit 16 which is a letter addressed to his attorney by Civic League of Improvement Clubs and Associations of San Francisco, dated June 28, 1937, signed by the secretary of this organization which urges the granting of this certificate.

The applicant presented no witness, excepting his traffic manager Monro, capable of offering any voluntary or studied opinions that would indicate that public convenience and necessity justified the granting of this certificate. The witness Monro related two isolated instances within his memory showing where the Hibbitt service has been used in the transportation of emergency shipments. In view of the multiplicity of common carrier and express services now available between all of the points affected and involved herein this showing by the witness Monro becomes wholly ineffective.

The applicant has argued that he "is entitled to the granting of his application as a matter of inherent right and abstract justice, without any showing of public convenience and necessity". The claim collapses from its colossal weight and we can

not subscribe thereto.

Applicant has further argued that it becomes the lawful right and duty of this Commission to grant this certificate by reason of the provisions of Section 36 of the Public Utilities Act. We quote that portion of the section specifically relied upon by applicant to sustain the position last stated supplying the identical emphasis adopted by the applicant:

"Whenever the Commission, after a hearing had upon its own motion or upon complaint, shall find that additions, extensions, repairs or improvements to, or changes in, the existing plant, equipment, apparatus, facilities or other physical property of any public utility or of any two or more public utilities ought reasonably to be made, or that a new structure or structures should be erected, to promote the security or convenience of its employees or the public, or in any other way to secure adequate service or facilities, the Commission shall make and serve an order directing that such additions, extensions, repairs, improvements or changes be made or such structure or structures be erected in the manner and within the time specified in said order." (Emphasis supplied)

It is sufficient to say that the section just quoted is not applicable to any issue raised herein. This section of the Public Utilities Act relates to an entirely different subject matter of regulation, and through no stretch of construction could this section be applied to an issue involving the granting or denial of a certificate of public convenience and necessity. It is sufficient to conclude this point by referring applicant to Section 50-3/4 of the Public Utilities Act which affords the law governing this Commission in the matter of the certificate of public convenience and necessity, which is involved herein.

The failure upon the part of the applicant to offer witnesses capable of proving that his proposed service is in the public interest is susceptible to the conclusion that anyone familiar with transportation conditions between the Bay points affected in this application and the certificated points confined to the

Hibbitt operation, would be forced to acknowledge upon this record that the common carriers now in the field, who are competitors of the Hibbitt operation, afford services which are satisfactory.

We reiterate that this is a case wherein applicant seeks a certificate of public convenience and necessity and wherein he must prove that the proposed truck operation between Vallejo and San Francisco and Oakland is in the public interest. The record in this case shows conclusively that there is no public need for the operation here proposed by the applicant. The net effect of his case merely demonstrates his desire to obtain a certificate so that he may continue to make a profit out of his interline traffic. This Commission has repeatedly held that neither the needs nor the desires of an applicant are sufficient to justify the granting of a certificate of public convenience and necessity. The following decisions of this Commission are in point.

Application of Santa Clara Valley
Auto Line,

14 C.R.C. 112, pp. 118, 119.

Palo Verde & Imperial Transportation Co.,

14 C.R.C. 722

Application of United Stage Company,

16 C.R.C. 428, 432-433.

Application of Motor Transit Co.,

21 C.R.C. 509, p. 513.

Application of H. T. Hemmstead for
Auto Stage Service,

21 C.R.C. 370, p. 377.

We quote from the Santa Clara Case, supra:

"The law looks not to the operator but to the convenience and necessity of the public and clearly contemplates that applications of this character shall be decided on the basis of this test alone and not on the basis of the desires or necessities of the operators."
(p. 118)

The case of Palo Verde & Imperial Transportation Company, supra, is particularly apposite. There the applicant sought a certificate of public convenience and necessity to operate a truck service between Los Angeles and El Centro and intermediate points. The Commission found that public convenience and necessity required the operation of the service between Los Angeles and some of the points proposed to be served but not as to certain other points and stated in this connection that a certificate could not properly be granted as to points in regard to which there was no public need for additional service merely "for the purpose of permitting an applicant to serve sufficient territory to make his operation profitable." (p. 725)

Applicant's contention that his greatly increased patronage that has been developed as the result of his exploitation of the interline traffic, "demonstrates" that public convenience and necessity justify the inauguration and the continuation of the service which he proposes. This contention is specious. The competitive character of the proposed service affords more ground for denying than it does for granting the same.

This principle was announced by the Commission in a very early case, Application of Great Western Power Company, (1 C.R.C. 203), where the Commission said:

"It certainly is true that where a territory is served by a utility which has pioneered in the field and is rendering efficient and cheap service and is fulfilling adequately the duty which, as a public utility, it owes to the public, and the territory is so generally served that it may be said to have reached the point of saturation as regards the particular commodity in which such utility deals, then certainly the design of the law is that the utility shall be protected within such field; but when any one of these conditions is lacking, the public convenience may often be served by allowing competition to come in." (p. 209)

Again, in another early case, Application of Oro Electric Corporation, (2 C.R.C. 748), the Commission said at page 755:

"The protection to the investment of a utility which is doing its full duty to the public is demanded, not merely as a matter of fairness, but also as a matter of common sense."

The principle enunciated in these cases has been consistently adhered to throughout the history of the Commission. Language similar to that quoted from the two preceding cases will be found in a number of later decisions, among which are the following:

Application of Santa Clara Auto Line,
supra,
14 C.R.C. 112, pp. 118-119.

Application of George Learned,
17 C.R.C. 594, p. 597.

Application of George G. Harm to
Operate Truck Service,
30 C.R.C. 866, p. 867.

Application of S. C. Brooks for
Motor Truck Service,
37 C.R.C. 672, p. 675.

Finally applicant contends that the perpetuity of his certificated operation between Sacramento and Vallejo would be imperilled by a denial of the certificate sought herein. While the evidence of applicant indicates that he would continue rendering this certificated service, even after a denial by this Commission of the certificate prayed for, there is grave doubt as to his ability to do so upon a profitable and enduring basis. The Commission is mindful of many certificated rights, the granting of which appeared in the first instance as being justified by public interest, which have ceased to exist by reason of inability to attract and hold sufficient patronage. If the future should demonstrate the failure of this Hibbitt service through insufficient revenue we would be impelled to reach the conclusion that the perpetuation of such service is no longer warranted by public convenience and

necessity.

In determining our answer to the question raised herein, we view this application, as we do every application, and we analyze it standing on its own foundation. The granting or denying of every certificate of public convenience and necessity should be determined upon the specific facts and the presence or absence of merit in each individual case. No hard or unyielding plan and set or specifications have been devised, the application of which would prove availing to furnish the correct answer in every case.

There are, however, certain well recognized principles and concomitants that stand out as guide posts and which help to direct us in our conclusions. All of these point the way to our ultimate objective, the public interest. Among these guide posts are first, the recognition of the vital importance of existing transportation and the perpetuity thereof. Another guiding principle is our recognition that the pioneer in the field of common carrier transportation, of whatsoever type and kind this carrier may be, always deserves consideration, and may even deserve the protection of our regulation, so long as this pioneer supplies a service that is satisfactory and adequate to meet all phases of the public interest.

The fact remains that this Commission has never made a finding that a motor service between Sacramento, on the one hand, and San Francisco, via Vallejo and Oakland, on the other hand, is justified by public convenience and necessity. From the record before us, and viewed in the light of these guiding principles, we must conclude that there is no public showing which would justify this Commission in finding that the public interest requires the granting of a certificate of public convenience and necessity for

such a motor truck service as is proposed herein. Therefore, in the order that follows we will deny the certificate which applicant has sought herein.

- - - - - o o o - - - - -

APPLICATION NO. 20804

San Francisco and Napa Valley Railroad, the applicant herein, is a California corporation and owns and operates a standard gauge electric railroad between Vallejo, Solano County, and Calistoga, Napa County, for the transportation of persons, mail, baggage, express and freight. This application is predicated upon the contingency of the abandonment of the San Francisco-Vallejo ferry route, in which event applicant asks for a certificate of public convenience and necessity to operate a general freight and express service by motor truck as a common carrier over the highway from Calistoga, paralleling applicant's rail line to Vallejo and thence to Oakland via Carquinez Bridge, Rodeo, San Pablo Avenue, and thence to San Francisco via San Francisco-Oakland Bay Bridge. Applicant proposes to operate this truck service in lieu of its electric rail service heretofore conducted between Calistoga and Vallejo.

The application was protested by the Southern Pacific Company, Pacific Motor Transport Company, Napa Transportation Company (a boat line operating between San Francisco, Vallejo, Mare Island and Napa), and F. H. Holloway, doing business under the firm name and style of VALLEJO EXPRESS COMPANY. The protest of Holloway was withdrawn, during the hearing, upon a stipulation of applicant

that it would not engage in pickup and delivery service in the Vallejo district served by Holloway.

We regard this problem from the same viewpoint taken in Application No. 20779, supra, and our determination of the granting or denying of the certificate herein sought is predicated solely upon the factor of public interest.

The history of applicant presents a striking distinction from that of applicant in Application No. 20779, supra. The within applicant railroad was organized and built for the expressed and principle purpose of affording transportation of persons and property between San Francisco and Napa Valley points, by means of joint rates and interline arrangements with the Monticello Steamship Company (now owned by Southern Pacific Golden Gate Ferries, Ltd.).⁽³⁾ The first link of this railroad service was constructed in 1905 between Napa and the Vallejo terminal of the said Monticello Steamship Company. Applicant extended its rail line to St. Helena in 1908 and to Calistoga in 1912. Since these various times said railroad has been operating between its respective termini pursuant to the interline service above outlined. In the case of the Sacramento Motor Transport service, Application No. 20779, supra, the expressed and certificated purpose of said service was limited to points between and including Sacramento and Vallejo, and its interline activities beyond Vallejo to San Francisco and Oakland were matters of subsequent development.

In 1920 the applicant herein made physical connections with the tracks of the federal government at the Mare Island Navy

(3) This ferry boat service between San Francisco and Vallejo now being conducted by Southern Pacific Golden Gate Ferries, Ltd., is the service which has been continuously in operation since 1896, and which has been ordered abandoned in Application No. 20742, supra.

Yard. (4) Since that date applicant has maintained with Southern Pacific Company a joint 75-car yard at Napa Junction and has owned, maintained and operated approximately seven miles of connecting tracks between said Navy Yard and Napa Junction. During these intervening years the applicant service has afforded Mare Island with its only rail connection. By means of this service the said Navy Yard has received all of its rail freight through all carriers, connecting with and including Southern Pacific Company. Applicant handles this traffic for the federal government under private contract, no rates being published or filed for this service.

On January 20, 1927, the applicant established, and has since maintained, through rates and joint tariffs for the movement of freight between all Napa Valley points and Oakland, via the ferries operating between Vallejo and San Francisco, and San Francisco and Oakland, and via Bay Cities Transportation Company.

Applicant proposes to operate two round trip truck schedules daily, except Sundays, Memorial Day, July Fourth, December 25, and January 1, between Calistoga and San Francisco via Vallejo (including Mare Island), Oakland and intermediate points. One of these round trips is scheduled to leave Calistoga at 6:00 a.m. and arrive in San Francisco at 12:00 noon; return from San Francisco at 7:00 p.m. and arrive in Calistoga at 2:00 a.m. The other of these services is scheduled to leave Calistoga at 3:00 p.m., arrive in San Francisco at 9:00 p.m.; leave San Francisco at 8:30 a.m. and arrive in Calistoga at 2:00 p.m. Applicant intends to render a pickup and delivery service wherever the same may become necessary, except that applicant has stipulated and agreed

(4) Mare Island Navy Yard is owned and operated by the federal government for the purpose of building and repairing U.S. naval craft. A large government hospital is also maintained thereon. Mare Island is west of and is separated from Vallejo by a narrow body of water known as Mare Island Straits, which is the confluence of the Napa River and the Carquinez Straits.

to render no pickup and delivery service in Vallejo and environs, a territory now adequately supplied with such a service by F. H. Holloway. (See application No. 20814, infra.)

The rates proposed in Exhibit A, attached to the first amended application, are practically the same as the joint rates now in effect between the applicant and the San Francisco-Vallejo ferry service.

The line haul equipment which applicant proposes to use will consist of two units of tractor and semi-trailer each with carrying capacity of 18 to 20 tons. Applicant has agreed to supply adequate additional equipment sufficient to meet in full all future demands and requirements of shippers.

Clyde E. Brown, Vice-President and General Manager of applicant, stressed the fact that his company had pioneered this service for a period of thirty-two years and had afforded Napa Valley with its only service that accommodated passengers, freight, express, baggage and mail. The investment in the properties of this company have exceeded \$1,000,000. At the present time the applicant owns two blocks of realty in the city of Napa, where its depot and shop properties are located, four town lots at the site of its St. Helena station, five town lots at the site of its Calistoga station, and non-agency freight shelters at Rutherford, Oakville, Yountville and numerous other points along its line. All of these properties are tangent to the highway route which applicant proposes to follow.

There are some 22,000 people residing in Napa County, most of whom are living in the Napa Valley which applicant proposes to serve. There are four California institutions located in said County and along or near applicant's proposed highway route, to-wit: the Napa State Hospital at Imola, the Veterans Home at Yountville, the State Farm and the California Game Farm. Napa Valley is a

fertile, prosperous, agricultural section, being extensively dedicated to the grape and wine industry and to various agricultural crops and pursuits.

In the twelve months ending May 1, 1937, the local and interline freight business of the applicant was disclosed in Exhibit 32.

We abstract the following statement from said exhibit:

COMPARATIVE STATEMENT OF FREIGHT TONNAGE AND REVENUE HANDLED JOINTLY WITH SOUTHERN PACIFIC GOLDEN GATE FERRIES, LTD., AGAINST FREIGHT TONNAGE AND REVENUE HANDLED LOCALLY, NOT INCLUDING MAKE ISLAND TRAFFIC NOR TANK CARS OF GASOLINE INTERCHANGED WITH SOUTHERN PACIFIC COMPANY AT NAPA JUNCTION, CALIFORNIA, FOR PERIOD JUNE 1, 1936 TO MAY 31, 1937.

	<u>Local Freight</u>		<u>Through Freight</u>		Total R.R. Revenue	Percentage of Local to Through
	Tons	Revenue	Tons	Revenue		
Total	171	\$568.04	4159	\$7555.68	\$8123.72	7.5%

It is important to note from the foregoing statement that the percentage of the local revenue, which results from and is limited to the movement of freight between Calistoga and Vallejo and intermediate points, is but 7.5% of the revenue received from the interline freight, which moves between said points, on the one hand, and San Francisco, on the other. It is obvious that upon the abandonment of the San Francisco-Vallejo ferry service applicant's railroad operation between Calistoga and Vallejo could not operate profitably if it were limited to the enjoyment of this local traffic.

The great percentage of this interline traffic originates in the Bay points. The following statement is taken from Exhibit 33:

STATEMENT OF REVENUE TONS HANDLED JOINTLY BETWEEN SOUTHERN PACIFIC GOLDEN GATE FERRIES, LTD. AND SAN FRANCISCO AND NAPA VALLEY RAILROAD, PERIOD FROM JUNE 1, 1936 TO MAY 31, 1937.

	Originated with SPGGF	Originated with SF & NVR	Total Tons Moved
Total	3757	402	4159

Brown summarized in behalf of applicant his revised conclusions as to the prospective revenues and expenses of the proposed truck operations between the Napa Valley points and Oakland and San Francisco. For the twelve months ending May 31, 1937, said railroad handled jointly with the San Francisco-Vallejo ferry, a total of 4159 tons, the great bulk of which was north bound from San Francisco. The revenue from this traffic was divided approximately fifty-fifty between the two carriers and each received annually therefrom \$7,555.68. In addition to this amount, the applicant railroad enjoyed an annual revenue of \$568.04 from strictly local traffic. The witness predicted that all of this through traffic, which is now jointly handled in the manner just described, would be retained by applicant's proposed through truck service. This conclusion is reinforced and supported by the fact that the said railroad has heretofore been successful in keeping any part of this traffic from moving via its competitor, Southern Pacific Co. and its subsidiary, Pacific Motor Transport Co. Brown stressed the fact that the same loyalty that has characterized the patronage of his railroad will be none the less felt in the event this application is granted and his railroad is permitted to render a direct truck service between the Napa Valley points, on the one hand, and San Francisco, upon the other. Therefore, he contends that the total revenue accruing to the proposed truck service would be the aggregate of \$7,555.68, the present ferry division, plus \$7,555.68 the present railroad division, plus \$568.04, the strictly local railroad revenue or a total of \$15,679.40.

Brown asserted the ability of his company to capture 50% of the strictly local Vallejo traffic handled as deck freight by the Southern Pacific Golden Gate Ferries, Ltd. between San Francisco and Vallejo, which percentage would amount to an average of 582 tons monthly, or 6984 tons annually. He stressed the fact that his present freight traffic now averages \$3.74 per ton and further explained that

this apparently high average rate per ton is realized by virtue of the fact that 48% of his total railway shipments have moved under the minimum charges of 50¢. He estimated his total revenue at the average figure of \$3 per ton and upon this calculation the revenue anticipated from capturing annually the said 6984 tons of Vallejo deck freight would result in a yearly total revenue of \$20,952, making his grand total annual revenue \$36,631.40.

RECAPITULATION OF ANTICIPATED ANNUAL REVENUES OF
PROPOSED SERVICE

Present interline revenue	\$15,111.36
Present local revenue	568.04
Prospective Vallejo deck freight revenue	<u>20,952.00</u>
Total revenue	\$36,631.40

In calculating his total cost of operation, Brown has adopted the figure of 22¢ per truck mile, being the same figure used by the Commission's engineer, Fred H. Chesnut, in Case No. 4088, Part "A", for estimating full cost and return on investment in truck operation. The witness believed this figure ample, and claimed that economies would be experienced through the dual operation of his railroad and trucks, by a common use of certain terminal and repair shop properties, tools, equipment and management, which he confidently anticipated would reduce the operating cost per truck mile below 22¢. Upon the calculation of 276 truck miles for the two daily round trips between San Francisco and Calistoga, and 300 working days per year, and accepting the 22¢ operating cost per truck mile, the total annual operating cost would be \$18,216. To this is added Carquinez Bridge Tolls aggregating \$3,342.90, ferry tolls between San Francisco and Oakland Pier aggregating \$6,123.50, making a total of \$27,682.40 total annual expenses. From these calculations the witness Brown has arrived at net annual profits aggregating \$8,949.00. He is confident

that this service will develop increased patronage and revenue.

RECAPITULATION OF ANTICIPATED ANNUAL COSTS OF
OPERATION OF PROPOSED SERVICE

Truck costs	\$18,216.00
Carquinez Bridge	3,342.90
Ferry tolls, San Francisco and Oakland Pier . .	<u>6,123.50</u>
Total Annual Operating Costs	\$27,682.40
Annual Net Profits	\$ 8,949.00

The witness Brown further stressed the fact that there was a substantial reservoir of traffic that could be tapped by the proposed certificated truck service between Calistoga and San Francisco via Vallejo and Oakland. He indicated material possibilities that could be developed with traffic to and from Lake County. Heretofore its service has been handicapped to the extent that his company was powerless to fix the ferry boat schedules. Hence the applicant was not always able to offer attractive schedules and services to Lake County shippers. Being in a position to render a through service, as proposed herein, and maintain schedules thereon to accomodate the requirements and demands of his shippers, and being confident that said operation could and would be conducted with substantial economies and savings by reason of the joint and common ownership and use of terminal facilities, depots and repair shops, Brown has asserted with confidence that this proposed service will attract a material flow of Lake County traffic now moving on the trucks of plant facility and contract carriers. He has estimated that sixty to sixty-five per cent of the freight to and from the said Napa Valley is now moving via these latter carriers. It is from this very substantial source that the applicant company expects to develop a profitable operation.

The protest of the Southern Pacific Company and its subsidiary, Pacific Motor Transport Company, is predicated on the alleged sufficiency of service of those two companies in the territory between Vallejo and Calistoga in relation to traffic to and from San Francisco and Oakland. Said companies have abandoned all their service in the Napa Valley except one freight train each way daily, except Sunday.

This train operates over a very indirect and circuitous route via Martinez, Suisun, back to Napa Junction, and thence northerly through the Napa Valley.

The service offered by Pacific Motor Transport Company and the Pacific Motor Trucking Company is dependent upon the service afforded by the Southern Pacific Company, and adds thereto a pickup and delivery in San Francisco, Oakland, Vallejo, Napa, St. Helena and Calistoga. Application of the Pacific Motor Trucking Company, No. 20806 seeks a certificate to transport freight by line haul trucking between Suisun-Fairfield and Vallejo. Said Application No. 20806 is now under submission, and will be determined in a subsequent decision of this Commission.

The Southern Pacific Company closing time at San Francisco and Oakland for the receipt of freight north bound and destined to Vallejo and the Napa Valley points is 5:45 p.m., and the closing time at Calistoga for south bound freight is 2:00 p.m. These protestants move annually 8762 tons of north bound L.C.L. freight into the territory sought to be served by applicant and extending between and including Calistoga and Vallejo, and 980 tons annually of L.C.L. south bound freight from said territory. The north bound carload tonnage of the Southern Pacific Company into this territory is annually 9336 tons, whilst its south bound annual carload tonnage out of this territory is 37,345 tons.

In this connection it should be noted that the terminal-to-terminal service rendered by the Southern Pacific Company calls for the delivery of such traffic at South Vallejo, which is 2.1 miles distant from the city of Vallejo, while applicant's terminal facilities are within the city of Vallejo, being in convenient proximity to the business section thereof, and on property adjoining the terminal of the ferry company. It is to this terminal that all of the traffic which the ferry company now seeks to abandon is now concentrated.

The protest of the Napa Transportation Company is without

merit. The latter company operates a boat service (one daily schedule each way) between Napa, Mare Island, Vallejo and San Francisco. It has submitted heretofore to this Commission its Application No. 21104 wherein it seeks to substitute for some of this boat service a truck service, in order to effectuate operative economies and render a better service. This application will be determined in a subsequent decision of this Commission. In the present connection it is sufficient to observe that if public convenience and necessity should require the Napa Transportation Company to substitute truck for boat service, then this company should not be heard to deny that the applicant herein should be privileged to render a truck service in lieu of the present joint rail and boat service, between the points involved in this application.

We survey the question of the certificate sought herein primarily with a view of the interests of Vallejo and Napa Valley, and we arrive at the conclusion that applicant's proposed service will afford this section a convenient, direct, economical and necessary service, one which will satisfactorily subserve the interests of this territory. If the freight service of the applicant were to be abandoned, this field would be inadequately served.

We believe that the communities in the Napa Valley require both the services rendered by the Southern Pacific Company and its subsidiaries as well as the service proposed by the applicant. The comparative large carload tonnage now hauled by Southern Pacific Company to and from this section is proof that such a service renders a necessary public service. Moreover much of this carload traffic consists of wine destined to eastern terminals and, therefore, affords the carrier a long haul and profitable rates. Correspondingly these valley communities will need applicant's proposed truck service as a substitute for the interline service which applicant and the ferry company has afforded these communities for many years.

As to Vallejo, we believe that the merchants and shippers of said community who have contributed so extensively to the terminal-to-terminal deck freight heretofore hauled by the ferry company would experience great inconvenience if they were compelled to move this freight to and from the Southern Pacific depot at South Vallejo, the above mentioned distance of 2.1 miles from the said ferry terminal located within the City of Vallejo. In view of the applicant's proposal to render a direct service between the said terminal in Vallejo and Oakland and San Francisco, these inconveniences are overcome.

The Commission is mindful of the fact that the territory between Vallejo and Calistoga needs and deserves a direct, convenient, expeditious and economical freight service. Unless this certificate is granted to applicant this growing and prosperous section of California will be without such a service. The order which follows will provide for the issuance of such a certificate.

San Francisco and Napa Valley Railroad, a corporation, the applicant herein, 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 o o - - - - -

APPLICATION NO. 20814

F. H. Holloway, doing business under the firm name and style of VALLEJO EXPRESS COMPANY, the applicant herein, is a certificated common carrier of freight operating a pickup and delivery service by trucks between San Francisco, on the one hand, and Vallejo and a zone three miles beyond the corporate limits of the city of

Vallejo, and Mare Island Navy Yard, on the other hand, via the ferries of the Southern Pacific Golden Gate Ferries, Ltd., operating between San Francisco and Vallejo. Said applicant and ferry company have agreed upon and received division of rates charged for this interline movement.

The application involved in this proceeding is predicated upon the contingency of the abandonment of the said ferry route, and, in view of the within determination and order of this Commission ordering its abandonment, it becomes necessary to determine whether or not public convenience and necessity justify the establishment of the highway common carrier truck service as proposed by applicant.

The history and character of applicant's service, which has existed in one form or another since 1872, is more fully disclosed in Decision No. 25570, Application No. 18526, dated January 23, 1933. In said Decision No. 25570 this Commission granted a certificate of public convenience and necessity to F. H. Holloway, doing business under the fictitious name and style of Vallejo Express Company wherein said Holloway was authorized to transport freight and merchandise of all kinds via steamships of the Southern Pacific Golden Gate Ferries, Ltd., between San Francisco, on the one hand, and Vallejo and a zone three miles beyond the corporate limits of the city of Vallejo and Mare Island Navy Yard, on the other hand. The said zone surrounding Vallejo and Mare Island was described in said certificate as follows to-wit:

"Starting from the Solano County bridgehead of Carquinez Bridge, thence northeasterly over County Road No. 267 to its junction with County Road No. 78, thence easterly to its junction with County Road No. 158, thence over County Road No. 91 through Sulphur Springs Tract and along County Road No. 233 to its junction with County Road No. 224, thence to Sears Point Road to Sears Point Toll Bridge bridgehead and continuing along the City of Vallejo waterfront to the starting point first above mentioned."

During the hearing it was stipulated that all of the testimony and exhibits and all papers on file in Application No. 20806, supra, were to be incorporated into this record by reference. In said Application No. 20806 the applicant herein protested the certificate sought by Pacific Motor Trucking Company and offered numerous witnesses for the purpose of establishing the adequate and satisfactory character of the service now being afforded by the applicant herein. A review of the record in said Application No. 20806 affords sufficient evidence upon which to enable the Commission to determine the issue herein.

The service now being rendered by the applicant Holloway involves the operation of seven trucks engaged in a pickup and delivery service between San Francisco and the Vallejo section as above specified. His depreciated investment in trucking equipment is \$13,000 and in office equipment approximately \$3,000. He employs eight people and makes about 3,000 deliveries in Vallejo every thirty days. In 1936 his gross revenue was \$39,000 and his net revenue between \$6,000 and \$7,000.

The applicant offered eight representative shippers who testified that his service was entirely satisfactory, expeditious and indispensable. The record in Application No. 20806 is without any evidence to refute this contention.

No opposition was offered during the progress of the hearing herein and we are unable to perceive any grounds for denying the certificate sought herein. Therefore, in the order that follows, we will grant said certificate.

F. H. Holloway, doing business under the firm name and style of VALLEJO EXPRESS COMPANY, the applicant herein, 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 o - - - - -

CASE NO. 4201

On February 23, 1937, this Commission, on its own motion issued its order of investigation "into the rates, fares, rules, regulations, charges, classifications, facilities, practices, contracts, operations, schedules, and accounting practices, or any of them, of SOUTHERN PACIFIC GOLDEN GATE FERRIES, LTD., to determine whether such rates, etc., or any of them, are unjust, unreasonable, discriminatory, or preferential in any particular, and to determine just, reasonable, sufficient, and non-discriminatory rates, etc., or any of them, to be observed and enforced by said utility, and to fix the same by order."

Said Case No. 4201 has been consolidated with all of the matters herein for purposes of hearing, together with all of the matters referred to and decided in Commission's Decision No. 29999, supra. The Commission is mindful of the present formative status of various phases concerning the rates, operation and traffic related to the existing service of said ferry company. Therefore, the Commission deems it in the public interest to keep said case open. For this reason the order that follows will continue said Case No. 4201 for the further consideration and order of this Commission.

FINDINGS OF FACT

Upon full and careful consideration of all the facts and circumstances of the consolidated record of Applications Nos. 21237 and 21297, and Cases Nos. 4204, and 4225 which were determined in Decision No. 29999, supra, and Applications Nos. 20742, 20779, 20804, and 20814, which are determined in the within decision, and Case No. 4201, which has been heard and considered with all of the matters referred to in this paragraph, but which will be continued for the further consideration and order of this Commission, and special reference now being made to our observations and conclusions which are hereinabove in this decision expressed and which are now re-affirmed as being among our findings of fact herein, the additional specific findings of fact are made:

IN APPLICATION NO. 20742 WE FIND AS FACTS:

1. That the San Francisco-Vallejo ferry service of the Southern Pacific Golden Gate Ferries, Ltd., is suffering daily direct operating losses, and that said operating losses exceeded \$200 per day for several months continuously preceding July 1, 1937;
2. That any further operation of said ferry service will result in losses which would impose unreasonable and unnecessary burdens upon any future operation of any other route or routes of said company;
3. That the abandonment of the said San Francisco-Vallejo ferry route is in the public interest.

IN APPLICATION NO. 20779 WE FIND AS FACTS:

1. That W. E. Hibbitt, the applicant herein, operating under the fictitious name of SACRAMENTO MOTOR TRANSPORT, is engaged in operating an automobile truck line as a common carrier of property between Sacramento and Vallejo and intermediate points, excluding Davis and all points between Davis and Sacramento, via Davis, Dixon, Vacaville, Suisun, Fairfield and Cordelia, and that said common carrier operation has been authorized by a certificate of public convenience and necessity heretofore issued by this Commission;

2. That said W. E. Hibbitt has no certificated right to extend this highway common carrier operation beyond Vallejo to San Francisco via Carquinez Bridge and Oakland;

3. That said W. E. Hibbitt seeks herein a certificate of public convenience and necessity authorizing him to engage in a new and added field of highway common carriage by truck between Sacramento, Dixon, Vacaville, Suisun, Fairfield and Cordelia, on the one hand, and Oakland and San Francisco, via Vallejo and Carquinez Bridge, on the other hand;

4. That public convenience and necessity do not require the establishment of the common carrier highway service by truck as proposed by the applicant herein, and that the application therefor should be denied.

IN APPLICATION NO. 20804 WE FIND AS FACTS:-

1. That San Francisco and Napa Valley Railroad, a corporation, the applicant herein, is a California corporation and owns and operates a standard gauge electric railroad between Vallejo, Solano County, and Calistoga, Napa County, which was built and which has been operated for the transportation of persons, mail, baggage, express and freight, between said points and intermediate points, and for the transportation of persons, mail, baggage, express and freight between Vallejo and Calistoga, and intermediate points (exclusive of Vallejo), on the one hand, and San Francisco, on the other hand, via joint rates and interline arrangements with Southern Pacific Golden Gate Ferries, Ltd. and its predecessors, by means of the ferry operating between San Francisco and Vallejo, and which has, since January 20, 1927, maintained through rates and joint tariffs for the movement of freight between Vallejo and Calistoga, and intermediate points (exclusive of Vallejo), on the one hand, and Oakland, on the other hand, via the ferries operating between Vallejo and San Francisco, and via Bay Cities Transportation Company, between San Francisco and Oakland.

2. That the said ferry service is to be abandoned, and that upon the abandonment thereof applicant has sought herein a certificate of public convenience and necessity to operate in lieu of said rail service a general freight and express service by motor truck as a common carrier over the highway from Calistoga, paralleling applicant's rail line to Vallejo and thence to Oakland via Carquinez Bridge, Rodeo, San Pablo Avenue, and thence to San Francisco via San Francisco-Oakland Bay Bridge, said certificate to authorize applicant to perform all of the transportation services affecting general freight and express, now being rendered by applicant between Calistoga and Vallejo and all intermediate points, and said certificate to authorize applicant to transport by motor truck, over the route proposed and hereinabove specified

freight and express between Vallejo and Calistoga, inclusive of both said points and all points between, on the one hand, and Oakland and San Francisco, on the other hand, provided that no pickup and delivery service be rendered in Vallejo and in Mare Island Navy Yard and in a zone three miles beyond the corporate limits of the City of Vallejo, for the transportation of traffic originating at or destined to San Francisco and Oakland.

3. That unless said applicant is granted the certificate sought herein the shipping public will be deprived of a service that is in the public interest and will be without a fully satisfactory and adequate common carrier transportation service of express and freight between and affecting all of the points hereinabove specified and sought to be served by the applicant herein, as outlined in the foregoing findings of facts;

4. That public convenience and necessity require the establishment of the common carrier highway service by truck as proposed by the applicant herein affecting express and freight and that said application therefor should be granted.

IN APPLICATION NO. 20814 WE FIND AS FACTS:

1. That F. H. Holloway, the applicant herein, operating under the firm name and style of Vallejo Express Company, is engaged in operating an automobile truck line, rendering a pickup and delivery service, as a common carrier of property between Vallejo and a zone three miles beyond the corporate limits of the City of Vallejo, and Mare Island Navy Yard, on the one hand, and San Francisco, on the other hand, via the ferries of Southern Pacific Golden Gate Ferries, Ltd., operating between San Francisco and Vallejo;

2. That the said ferry service is to be abandoned, and that upon the abandonment thereof applicant has sought herein a certificate of public convenience and necessity to continue said service, between said points via the most satisfactory and convenient highway route;

3. That unless said F. H. Holloway is granted this certificate the two territories, hereinabove mentioned and heretofore served by him in the manner specified, will be deprived of a service that is in the public interest and will be without any satisfactory or adequate common carrier pickup and delivery service which would serve in lieu thereof;

4. That public convenience and necessity require the establishment of the common carrier highway pickup and delivery service by truck as proposed by the applicant herein and that said application therefor should be granted.

IN CASE NO. 4201 WE FIND AS FACTS:

1. That there are various phases concerning the rates, operation and traffic related to the existing service of Southern Pacific Golden Gate Ferries, Ltd. which will require the further consideration and order of this Commission.

The following form of order is recommended:

ORDER

A public hearing having been held on the above entitled applications and case, and all of said matters having been duly submitted, and the Commission being fully advised, all of said matters being now ready for decision,

(Application No. 20742)

1. IT IS HEREBY ORDERED that provided Southern Pacific Golden Gate Ferries, Ltd., within thirty (30) days from the date hereof, on not less than five (5) days' notice to the Commission and to the public, cancel all rates, rules, regulations and time schedules for the transportation of freight and passengers between San Francisco, California (Pier A, Foot of Clay Street) on the one hand, and Vallejo, California, on the other hand, said Southern Pacific Golden Gate Ferries, Ltd. be and it is hereby authorized to discontinue and abandon said service upon the effective date of said cancellation.

(Application No. 20779)

2. IT IS HEREBY FURTHER ORDERED that W. E. Hibbitt, operating under the fictitious name of SACRAMENTO MOTOR TRANSPORT, having made application for a certificate of public convenience and necessity authorizing the operation of a motor truck freight service between Sacramento, Dixon, Vacaville, Suisun, Fairfield and Cordelia, on the one hand, and Oakland and San Francisco, via Vallejo and Carquinez Bridge, on the other hand,

The Railroad Commission of the State of California hereby declares that public convenience and necessity do not require the establishment of the service proposed, and

IT IS HEREBY ORDERED that the application be and the same hereby is denied.

(Application No. 20804)

3. The Railroad Commission of the State of California hereby declares that public convenience and necessity require the establishment of a highway common carrier service as defined in Section 2-3/4 of the Public Utilities Act by San Francisco and Napa Valley Railroad, a corporation, between Calistoga and Vallejo and intermediate points, and between Calistoga and Vallejo, inclusive of both said points, and all points between, on the one hand, and Oakland and San Francisco, on the other hand, excepting therefrom pickup and delivery service in Mare Island Navy Yard and in Vallejo and in a zone three miles beyond the corporate limits of the City of Vallejo for the transportation of all traffic originating at or destined to San Francisco and Oakland, over and along the following route:

Between Calistoga, on the one hand, and San Francisco and Oakland, on the other hand, via Vallejo, Carquinez Bridge, Rodeo, San Pablo Avenue and San Francisco-Oakland Bay Bridge and/or common carrier ferry service between Oakland and San Francisco.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such service be and the same hereby is granted to San Francisco and Napa Valley Railroad, a corporation, subject to the following conditions:

- A. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof;
- B. Applicant shall commence the service herein authorized within a period of not to exceed 30 days from the effective date hereof and shall file in triplicate and concurrently make effective on not less than ten (10) 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 which in volume and in effect shall be identical with the rates and rules shown in the exhibit attached to applicant's amended application insofar as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission;

- C. Applicant shall file in duplicate and make effective within a period not to exceed thirty (30) days after the effective date of this order on not less than five (5) days' notice to the Railroad Commission and the public time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission;
- D. 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;
- E. No vehicle 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;
- F. 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;
- G. The service authorized herein shall be made effective contemporaneously with and not before the abandonment and discontinuance of ferry service by Southern Pacific Golden Gate Ferries, Ltd. between San Francisco and Vallejo;
- H. For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

(Application No. 20814)

- 4. The Railroad Commission of the State of California hereby declares that public convenience and necessity require the establishment of a highway common carrier service as defined in Section 2-3/4 of the Public Utilities Act by F. H. Holloway, doing business under the fictitious name and style of Vallejo Express Company between Vallejo, Mare Island Navy Yard and a zone starting from the Solano County bridgehead of Carquinez Bridge, thence northeasterly over County Road No. 267 to its junction with County Road No. 78, thence easterly to its junction with County Road No. 158, thence over County Road No. 91 through Sulphur Springs Tract and along County Road No. 233 to its junction with County Road No. 224, thence to Sears Point Road to Sears Point Toll Bridge bridgehead and continuing along the City of Vallejo Waterfront to the starting point first above mentioned, on the one hand, and San Francisco, on the other hand, and over the following route; via Carquinez Bridge, Rodeo, San Pablo Avenue, San Francisco-Oakland Bay Bridge and/or common carrier ferry service between San Francisco and Oakland.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such service be and the same is hereby granted to F. H. Holloway, operating under the firm name and style of Vallejo Express Company, subject to the following conditions:

- A. Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof;
- B. 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 (10) 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 which in volume and in effect shall be identical with the rates and rules shown in the exhibit attached to applicant's amended application insofar as they conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission;
- C. Applicant shall file in duplicate and make effective within a period not to exceed thirty (30) days after the effective date of this order on not less than five (5) days' notice to the Railroad Commission and the public time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission;
- D. 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;
- E. No vehicle 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;
- F. 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;
- G. The service authorized herein shall be made effective contemporaneously with and not before the abandonment and discontinuance of ferry service by Southern Pacific Golden Gate Ferries, Ltd. between San Francisco and Vallejo;

H. For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

(Case No. 4201)

5. IT IS HEREBY FURTHER ORDERED that Case No. 4201 shall be and the same hereby is continued for further consideration and order of this Commission.

For all other purposes 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 7th day of September, 1937.

Walter H. Mason
Leon C. Whittell

Ray L. Wakefield
Ray L. Keeney
Commissioners