

Decision No. 3052A

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
UNITED PARCEL SERVICE BAY DISTRICT)
for an "in lieu" certificate con-) Application No. 21612
solidating all of its operative)
rights.)

FRED G. ATEBARN and DOUGLAS BROOKMAN, for Applicant.

A. L. WHITTLE, for Southern Pacific Company, Pacific Motor Transport Company, Pacific Motor Trucking Company, Northwestern Pacific Railroad Company, as their interests may appear.

EAROLD M. HAYES, for Inter-City Transport Lines and Pioneer Express, as their interests may appear.

LOUIS M. CHAMEREAU, for Valley Express Company and Frasher Truck Company, Inc., as their interests may appear.

BY THE COMMISSION:

O P I N I O N

United Parcel Service Bay District, a corporation, has applied to the Commission for a certificate of public convenience and necessity authorizing the consolidation and unification of its highway common carrier service for the transportation of property in general between San Francisco and San Jose and intermediate points; between San Francisco and various points in Marin County; and between San Francisco and various East Bay points and for a certificate de novo in lieu of its presently held operating rights.

A public hearing in this application, as amended, was held before Examiner Paul and the matter is now ready for decision.

Southern Pacific Company, Pacific Motor Trucking Company, Pacific Motor Transport Company, Northwestern Pacific Railroad Company, Inter-City Transport Lines, Pioneer Express, Valley Express

Company, Frasher Truck Co., Inc., were present as their interests appeared. The granting of the application was not protested.

The applicant is, in part, engaged in a specialized highway common carrier service between numerous points located in the San Francisco metropolitan district for the delivery of parcels, principally between retail stores and customers thereof. Between many of such points no restrictions are imposed either as to the weight or size of parcels which may be transported. While between other points applicant is restricted to the transportation of parcels not exceeding one hundred pounds each in weight nor 160 inches in combined length and girth.

Applicant is now seeking a certificate in lieu of all of its presently owned operating rights restricting its services to the delivery of parcels not exceeding one hundred pounds each in weight nor 160 inches in combined length and girth with the exception of furniture and allied commodities tendered for transportation by retail stores which use the facilities of applicant exclusively for retail deliveries. Applicant proposes to further restrict its services to deliveries of parcels of merchandise between retail stores and their customers; between retail stores and branches thereof; between wholesale stores and retail stores and branches thereof, and as to deliveries from wholesale stores applicant proposes to confine such deliveries to certain specified districts. No deliveries from wholesale stores are to be made from one district to another. Such districts are defined as follows:

1. Between San Francisco and San Jose and intermediate points.
2. Between San Francisco, Oakland, Berkeley, Alameda, Piedmont, Emeryville, Albany, El Cerrito, Richmond, Richmond Annex, San Leandro, Hayward and intermediate points.
3. Between San Francisco, Sausalito, Mill Valley, Corte Madera, Ross Fairfax, Manor, San Rafael, Hamilton Field, Tiburon, Belvedere, and intermediate points.

Applicant proposes the publication of a single tariff covering all operations involved herein to take the place of several existing tariffs applicable in the same territory. The proposed tariff is said to be substantially similar in form to the one now on file with the Commission covering like operations conducted in Los Angeles. The proposed tariff differs materially in form from the existing tariffs and results in numerous changes in rates, rules, and regulations involving both advances and reductions.

The increases, it is claimed, are brought about principally by changes in existing rules and regulations in order to bring about uniformity with the Los Angeles tariff, for the purpose of clarification, and by restriction of the defined pickup and delivery limits in connection with certain of the rates. They are said to be of a minor nature and of little practical significance.

Because of the material difference in the form of the proposed tariff as compared with existing tariffs, it is said to be impractical to indicate the increases and reductions in connection with the specific provisions in which they occur as required by rule 4 (k) of General Order 80 of the Commission. Accordingly, applicant requests authority to depart from the requirements of said rule.

The record shows that applicant will be enabled to establish substantial economies by the proposed consolidation and unification of operations.

Upon a full consideration of the record, we are of the opinion that public convenience and necessity will best be served by a consolidated and unified service by applicant and the issuance of a single certificate therefor in lieu of all of its presently held operating rights and that the rate increases sought have been justified. An order will be entered accordingly.

United Parcel Service Bay District, a corporation, is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

O R D E R

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, and the Commission being now fully advised in the premises:

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the establishment and operation by United Parcel Service Bay District, a corporation, of a consolidated and unified highway common carrier service for the transportation of property between the following named termini and all intermediate points, except as hereinafter specifically restricted and limited, over and along the following routes:

1. Between San Francisco and San Jose via Daly City, Colma, South San Francisco, San Bruno, Millbrae, Burlingame, San Mateo, Beresford, Belmont, San Carlos, Redwood City, Menlo Park, Palo Alto, Mountain View, Sunnyvale and Santa Clara, with diversions to Woodside and Los Altos, over and along U. S. Highway 101 and Bayshore Highway.
2. Between San Francisco, San Pablo and Hayward via, Oakland, Emeryville, Piedmont, Berkeley, Albany, El Cerrito, Richmond, Richmond Annex, San Leandro, San Lorenzo and Mt. Eden over and along U. S. Highway 40, U. S. Highway 101 E, San Francisco-Oakland Bay Bridge and/or common carrier ferry routes.

3. Between San Francisco, Manor and entrance to United States Military Reservation at Hamilton Field, via Sausalito, Mill Valley, Larkspur, Kentfield, Ross, San Anselmo, Fairfax and San Rafael with diversion to Tiburon and Belvedere, over and along U. S. Highway 101 and state highway between Mill Valley, Corte Madera, Manor, and San Rafael. Between Sausalito and Marin County bridge head of the Golden Gate Bridge.

IT IS ORDERED that a certificate of public convenience and necessity therefor is granted to United Parcel Service Bay District, a corporation, in lieu of and not in addition to operating rights heretofore acquired by said corporation by Decision No. 28589, dated February 24, 1936, Decision No. 29237, dated November 2, 1936, Decision No. 29856, dated June 14, 1937, subject to the following restrictions and limitations: and conditions:

1. No property shall be transported single packages of which exceed 100 pounds in weight or 160 inches in combined length and girth, with the exception of furniture tendered for transportation by retail stores which use the facilities of applicant exclusively for retail deliveries.
2. Property shall be transported in the following manner and no other:
 - (a) Between retail stores and customers thereof;
 - (b) Between retail stores and branches thereof;
 - (c) Between wholesale stores and retail stores and branches thereof, provided, however, that no transportation under this subdivision shall be performed between any point located on any route and any point located on any other route as such routes are hereinabove set forth.
3. No local service shall be performed between Oakland, San Pablo, Hayward and intermediate points.
4. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
5. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate, and concurrently make effective on not less than ten days' notice to the Railroad Commission and the public, a tariff or tariffs as hereinafter authorized.

6. Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Railroad Commission and the public, a time schedule or time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

7. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been obtained.

8. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

9. 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.

IT IS FURTHER ORDERED that applicant is authorized to publish and file a tariff constructed in accordance with the requirements of the Commission's general orders and containing rates and rules which in volume and effect shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted, provided, however, that said tariff may be filed without regard to the terms of rule 4 (k) of General Order No. 80.

IT IS FURTHER ORDERED that Decision No. 28589, dated February 24, 1936, Decision No. 29237, dated November 2, 1936, and Decision No. 29856, dated June 14, 1937, are revoked and annulled.

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

Dated at San Francisco, California, this 31st day of January, 1938.

Walter W. [Signature]
Leon [Signature]

[Signature]
[Signature]
COMMISSIONERS.