

ORIGINAL

Decision No. 34865

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
VERNON B. BRADBURY, doing business  
under the firm name and style of  
MENLO PARK & SAN FRANCISCO PARCEL  
DELIVERY, for an extension and en-  
largement of his present prescriptive  
operating right to operate as a high-  
way common carrier between San Francisco  
and Menlo Park, and intermediate points.)

Application No. 22424

JOHN C. ALTMAN and HAROLD L. LEVY by Harold L.  
Levy, for Applicant.

FRED G. ATHEARN and DOUGLAS BROOKMAN by Douglas  
Brookman, for United Parcel Service Bay District,  
Protestant.

EDWARD STERN for Railway Express Agency, Incorporated,  
Interested Party.

J. F. VIZZARD and EDWARD TRIMMER by J. F. Vizzard  
for Highway Transport Inc., Protestant.

HAROLD HAYS for Intercity Transport Lines and  
Pioneer Express, Protestants.

JOHN ROWLEY for Automotive Purchasing Co., Inc.,  
Protestant.

H. C. LUCAS, E. D. RICHARDS and GUY HILL by Guy  
Hill for Pacific Greyhound Lines, Protestant

H. P. HOLMES for Holmes Express, Protestant.

BY THE COMMISSION:

O P I N I O N

This is an application by Vernon B. Bradbury, operating  
under the fictitious name and style of Menlo Park & San Francisco  
Parcel Delivery, for an extension and enlargement of his presently  
conducted highway common carrier operation between San Francisco

and Menlo Park and intermediate points, so as to permit him to serve Palo Alto (including Mayfield and Stanford University) and intermediate points between Menlo Park and Palo Alto. Applicant proposes to operate via the main highway between San Francisco and Palo Alto and seeks also a lateral right of one mile on each side of the route traversed between Menlo Park and Palo Alto.

Public hearings in this proceeding were had before Examiner McGettigan on January 27 and February 24, in San Francisco, where testimony was taken, exhibits received and the matter being submitted it is now ready for decision.

United Parcel Service Bay District, Highway Transport, Inc., Intercity Transport Lines, Pioneer Express, Automotive Purchasing Co., Inc., Holmes Express, and Pacific Greyhound Lines protested the granting of this application. Railway Express Agency, Incorporated, appeared as an interested party.

Applicant testified in his own behalf and during the course of the proceedings presented seven public witnesses who testified in support of the application.

For protestants, the testimony of Harold Hays, Edward Stern and Edward Trimmer was presented.

For the applicant, the record reveals that he has been engaged in the transportation business for approximately three years between San Francisco and Menlo Park and intermediate points by virtue of having acquired the prescriptive operative right of one <sup>(1)</sup> B. Liedberg. The transportation of property was limited to packages weighing not in excess of one hundred (100) pounds, and rates between Atherton and Menlo Park applied one mile laterally from the highway between those points.

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(1) Decision No. 28969, dated July 7, 1936, on Application No. 20643.

In his testimony, the witness Bradbury revealed this is essentially a "one man business", he performing all operating duties with his wife assisting him in the bookkeeping and record keeping end of the business. The volume of business he enjoys is not very large and nets him approximately \$75<sup>(2)</sup> per month, according to his testimony. This applicant operates one truck and proposes to operate one round trip daily, except Sunday, moving northbound from Palo Alto in the morning at 8:00 AM and southbound from San Francisco in the afternoon at 1:15PM, with pickup and delivery service afforded. According to witness Bradbury, arrival at, and departure from intermediate points cannot be specified with certainty, but will vary, according to load, with each trip made.

Essentially, according to the record, applicant's traffic consists principally of small packages and parcels. Commodities transported include foodstuffs, chinaware, glassware and silverware, decorative greens, fresh flowers, table ornaments, wrought iron garden and lawn furniture, fireplace screens, andirons and notions. Applicant's chief assets appear to be his willingness to accept all of these commodities without special packing or protective features; noninsistence upon freight bills, his personal acquaintanceship with all his customers, plus a faculty for affording service with promptness and dispatch, according to testimony of his public witnesses. Incidentally, this matter of freight bills, packing and tagging, bulked large in the mind of witnesses as of prime importance in their business. The chief impression left by the testimony of record is of a service to a rather limited consumer clientele who in dealing with the various specialty shops and stores indicated by the type of

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(2) 1937 annual report shows a profit of \$851. 1938 annual report shows a profit of \$1020.96.

commodity transported have developed, through this applicant, a means of obtaining deliveries of their gifts and fancy food delicacies with a minimum of handling and elapsed time. Apparent, also, is the fact that a limited number of patrons or members of their immediate families have been the chief beneficiaries of this service. Indeed, the applicant appears in his offer of service to Palo Alto, to be prompted chiefly by a desire to continue to serve these families and their kin who have changed residences or established new ones in and about the general territory on the south peninsula.

No great fault was found by any witness with existing common carrier services except that these carriers apparently could not and probably would not match the policy adopted by the applicant in performing what might well be termed ancillary services such as arranging with butlers and gardeners for the transportation of garden greens, flowers, etc., from country homes to city homes, and his evident willingness to waive protective packing and tagging requirements ordinarily required by carriers.

In rendering the type of service herein described, applicant and his predecessor appear to have developed an operation singularly adapted to his customers' requirements and apparently filling a need over a long period of time, restricted it is true, but nevertheless of definite value to that portion of the public patronizing this operator.

Under outstanding orders of this Commission, carriers are required to issue a shipping document for each shipment received for transportation. Applicant is hereby placed upon notice that

all future transactions engaged in by this carrier must be upon a basis of the proper issuance of freight bills in essentially the same form as heretofore prescribed by the Commission.

Furthermore, the record shows that applicant has not developed a type of business which would require him to transport single shipments in excess of 50 pounds. Most of the commodities transported would in all probability not average more than ten pounds per shipment.

Based upon the record in this proceeding and after duly considering this matter in its entirety, the Commission is of the opinion that applicant should be permitted to extend his present operations to include Palo Alto for the transportation of property as a highway common carrier, subject to a restriction that no shipment in excess of 50 pounds shall be transported. With the restrictions as to weight so imposed, it does not appear that the grant herein will impair or place undue competitive conditions upon existing services.

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

O R D E R

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the

establishment and operation by Vernon B. Bradbury of an automotive service as a highway common carrier of property between Menlo Park and Palo Alto and intermediate points via the main highway and laterally one mile on each side of the route traversed, as an extension and enlargement of applicant's existing right between San Francisco and Menlo Park, subject to the restriction that,

In the transportation of property no single shipment in excess of 50 pounds shall be transported between San Francisco and Menlo Park and intermediate points, on the one hand, and Menlo Park and Palo Alto (excluding Menlo Park) and intermediate points on the other hand.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, granted to Vernon B. Bradbury subject to the following conditions:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, and shall file in triplicate, and concurrently make effective on not less than ten days' notice to the Railroad Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules 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, or rates and rules satisfactory to the Railroad Commission.
3. Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Railroad Commission and the public, a time schedule or time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.
4. The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been obtained.

5. No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.
6. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

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

Dated at <sup>Los Angeles</sup> ~~San Francisco~~, California, this 27<sup>th</sup> day of March, 1939.

*Robert W. ...*  
*Frank ...*  
*...*  
*...*  
*Justin J. Coe*  
COMMISSIONERS