

Decision No. 32324

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of SAUSALITO-MILL VALLEY & SAN FRANCISCO EXPRESS CO., a corporation, for authority to issue stock, and of JOHN W. ANDERSON to transfer his highway common carrier operative rights and motor equipment to SAUSALITO-MILL VALLEY & SAN FRANCISCO EXPRESS CO.

Application No. 22710

Douglas Brookman, for applicants

BY THE COMMISSION:

O P I N I O N

In this proceeding, the Commission is asked to enter its order authorizing John W. Anderson to transfer all of his operative rights to conduct a highway common carrier business, including motor equipment and other assets listed in Exhibit C filed in this proceeding, to Sausalito-Mill Valley & San Francisco Express Co., a corporation, and authorizing Sausalito-Mill Valley & San Francisco Express Co., a corporation, to issue 70 shares (\$7,000 par value) of its capital stock to John W. Anderson in payment for said properties.

The Commission is also requested, if it deems it necessary, to include in the order made in this proceeding, a declaration that the "grandfather" operative rights of applicant, John W. Anderson, are co-extensive with the operations at present conducted by said applicant as a highway common carrier, or to issue an "in lieu" certificate of public convenience and necessity authorizing said applicant to operate a highway common carrier service co-extensive with the present service conducted by applicant John W. Anderson.

The testimony shows that John W. Anderson is now, and for more than 23 years last<sup>past</sup> has been continuously engaged in the business of operating a highway common carrier service for the transportation of property by motor and other vehicles between San Francisco on the one hand and Sausalito, Mill Valley, Fairfax, Tiburon, San Quentin, San Rafael and certain other points in Marin County on the other hand. He has conducted these operations under the name of Sausalito-Mill Valley & San Francisco Express Co. Recently he has caused to be organized a corporation under the name of Sausalito-Mill Valley & San Francisco Express Co. and desires to transfer to said corporation all of his highway common carrier operative rights, including the right to operate over the Golden Gate Bridge, granted by the Commission in Decision No. 29572, dated March 1, 1937, in Application No. 20091, together with all of the motor equipment, office equipment, general shop and mechanical equipment and office supplies and stationery listed in Exhibit C filed in this proceeding. This exhibit refers to 14 units of equipment which are valued at \$6,395; to office equipment valued at \$478.50 ; to general shop and mechanical equipment valued at \$276.75; and to office supplies and stationery valued at \$274.78, making a total value of \$7,425.03. In payment for this property, Sausalito-Mill Valley & San Francisco Express Co., a corporation, asks permission to issue to John W. Anderson \$7,000 par value of its common capital stock. The testimony shows that the equipment will be transferred to the corporation free and clear of all encumbrances.

It is of record that from the commencement of his operations, applicant John W. Anderson has operated over all the convenient state and county highways and roads in Marin County from Sausalito north, as far as St. Vincent's Orphanage, a short distance out of San Rafael. The highways and routes over which applicant John W. Anderson is presently operating are delineated on a map filed in this proceeding

as Exhibit B. The particular routes over which he operates in Marin County are in the petition described as follows:-

1. From Sausalito to St. Vincent's Orphanage via U.S. Highway No. 101, passing through Manzanita, Greenbrae and San Rafael.
2. From Manzanita on U.S. Highway No. 101 to Manor via a County Road (known as Sir Francis Drake Highway) and passing through Dolan's Corner, Alto, Corte Madera, Larkspur, Escalle, Kentfield, Ross, San Anselmo and Fairfax, including a diversion from Dolan's Corner to Mill Valley.
3. From Mill Valley to Tiburon via Alto and Belvedere, including a diversion from Tiburon to California City and over the Cross-County Road, forming a loop back to Belvedere Road.
4. From San Anselmo to San Quentin via San Rafael and Point San Quentin; also via Kentfield and Greenbrae.
5. Over the County Road directly connecting Corte Madera and U.S. Highway No. 101.
6. Over the County Road (known as Wolf's Hill Road) connecting Kentfield and San Rafael.

The operative rights of applicant John W. Anderson have never been specifically defined by the Commission, except for the certificate of public convenience and necessity/<sup>granted</sup> by Decision No. 29572, dated March 1, 1937 in Application No. 20091. By this decision the Commission authorized applicant John W. Anderson to establish an alternative route for service between San Francisco and Marin County points via the Golden Gate Bridge. Theretofore applicant John W. Anderson utilized the ferry service of the Northwestern Pacific Railroad Company between San Francisco and Sausalito.

The testimony shows that said John W. Anderson has operated between the points referred to in this application prior to May 1, 1917, except as to the right granted him by said Decision No. 29572. Due notice was given of the hearing on this application. No one appeared at the hearing to protest in any particular the granting of the application. We believe that the Commission should grant to said John W. Anderson an "in lieu" certificate of public convenience and necessity

authorizing him to operate as a highway common carrier between San Francisco and certain points in Marin County, co-extensive with the present operations. The order herein will designate the points between which said John W. Anderson or his successors may render service and the routes over which such service shall be conducted. In making the order, however, the Commission wishes to place applicants 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 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.

#### ORDER

A public hearing having been held in this matter before Examiner Fankhauser, the Commission having considered the evidence submitted at such hearing and it being of the opinion that this application should be granted, subject to the provisions of this order, therefore,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation of a highway common carrier service by John W. Anderson between San Francisco on the one hand, and Sausalito, Mill Valley, Manor, Tiburon, Belvedere, San Quentin, Point San Quentin, San Rafael, St. Vincent's Orphanage and intermediate points on the other hand, said service between San Francisco and Sausalito to be rendered via Northwestern Pacific Railroad Company ferry boats, or via the Golden Gate Bridge, and in Marin County over the following routes:

1. From Sausalito to St. Vincent's Orphanage via U.S. Highway No. 101, passing through Manzanita, Greenbrae and San Rafael.

2. From Manzanita on U.S. Highway No. 101 to Manor via a County Road (known as Sir Francis Drake Highway) and passing through Dolan's Corner, Alto, Corte Madera, Larkspur, Escalle, Kentfield, Ross, San Anselmo and Fairfax, including a diversion from Dolan's Corner to Mill Valley.

3. From Mill Valley to Tiburon via Alto and Belvedere, including a diversion from Tiburon to California City over the Cross-County Road, forming a loop back to Belvedere Road.

4. From San Anselmo to San Quentin via San Rafael and Point San Quentin; also via Kentfield and Greenbrae.

5. Over the County Road directly connecting Corte Madera and U.S. Highway No. 101.

6. Over the County Road (known as Wolf's Hill Road) connecting Kentfield and San Rafael.

IT IS HEREBY ORDERED, that a certificate of public convenience and necessity for such a service be, and it is hereby granted to John W. Anderson in lieu of all his existing operative rights, which existing operative rights, are hereby revoked and annulled.

IT IS HEREBY FURTHER ORDERED, that said John W. Anderson be, and he is hereby authorized to transfer, after the effective date hereof and on or before October 1, 1939, to Sausalito-Mill Valley & San Francisco Express Co., a corporation, the aforesaid certificates of public convenience and necessity and the equipment and other properties described in Exhibit C filed in this proceeding.

IT IS HEREBY FURTHER ORDERED, that Sausalito-Mill Valley & San Francisco Express Co., a corporation, be, and it is hereby authorized to issue in payment for the aforesaid properties \$7,000 par value of its common capital stock, which stock issue is reasonably required for the purpose of acquiring said properties, the cost of which is not reasonably chargeable to operating expenses or to income.

IT IS HEREBY FURTHER ORDERED that the authority herein granted is subject to further conditions as follows:-

1. Applicant John W. Anderson shall file his written acceptance of the certificate herein granted within a period of not to exceed twenty(20) days from the date hereof.

2. The consideration being paid for the property herein authorized to be transferred, shall never be urged before this Commission or any other rate fixing body as a measure of the value of such property for rate fixing or for any purpose other than the transfer herein authorized.

3. Applicants, John W. Anderson and Sausalito-Mill Valley & San Francisco Express Co., a corporation, shall join within twenty(20) days after the effective date of this order in common supplement to the tariffs on file with the Commission covering service given by said John W. Anderson, under the fictitious name of Sausalito-Mill Valley & San Francisco Express Co., said John W. Anderson withdrawing and said applicant Sausalito-Mill Valley & San Francisco Express Co., a corporation, accepting and establishing as its own such tariffs and all effective supplements thereto.

4. Applicant Sausalito-Mill Valley & San Francisco Express Co., a corporation, shall, prior to beginning operations, file in duplicate in its name, time schedules covering service heretofore given by said applicant, John W. Anderson, which time schedules shall be identical with the time schedules now on file with the Railroad Commission in the name of said applicant, John W. Anderson, or time schedules satisfactory to the Railroad Commission.

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

6. No vehicle may be operated by applicant, Sausalito-Mill Valley & San Francisco Express Co., a corporation, unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

7. The authority herein granted to sell and transfer the rights and property shall lapse and be void if the parties thereto shall not have complied with all the conditions within the periods of time fixed herein unless for good cause shown, the time shall be extended by further order of the Commission.

8. Applicant, Sausalito-Mill Valley & San Francisco Express Co., a corporation, prior to the commencement of service as authorized herein, and continuously thereafter, shall comply with all the provisions of the Commission's General Order No. 91.

9. Within thirty(30) days after the issue of the stock herein authorized, applicant Sausalito-Mill Valley & San Francisco Express Co., a corporation, shall file with the Railroad Commission a report showing how much stock it issued under the authority herein granted, to whom it issued said stock, and the consideration which it received therefor.

10. The authority herein granted, except as otherwise provided herein, will become effective twenty(20) days after the date hereof.

DATED at San Francisco, California, this 8<sup>th</sup> day of August, 1939.

Raymond J. ...  
Drum ...  
...  
Justin J. ...  
COMMISSIONERS.