

ORIGINAL

Decision No. 32314

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of SAN FRANCISCO AND NAPA VALLEY
RAILROAD, a corporation, for a
certificate to perform a general
pick-up and delivery service within
the City of Vallejo and Mare Island
Navy Yard in connection with its
common carrier service presently
performed in these territories.

Supplemental
Application
No. 20804

NATHAN F. COOMBS, CLYDE E. BROWN and H. J.
HOFFMAN by Nathan F. Coombs for applicant
San Francisco and Napa Valley Railroad.

RUSSELL F. O'HARA and FRANK H. HOLLOWAY by
Russell F. O'Hara, for Frank Holloway,
doing business as Vallejo Express Company,
Protestant.

F. X. VIEIRA and R. E. WEDEKIND by F. X. Vieira
for Southern Pacific Company and Pacific
Motor Trucking Company, as their interests
may appear.

FRANK O. BELL, Secretary-Manager for Vallejo
Chamber of Commerce.

BAKER, Commissioner:

O P I N I O N

By this supplemental application, San Francisco and Napa Valley Railroad, a corporation, seeks an amendment of Decision No. 30086, whereby said corporation may be permitted to perform a pick-up 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."

As presently set forth in said Decision No. 30086, performance of such pickup and delivery service is prohibited.

A public hearing in this proceeding was had in San Francisco on August 11, 1939, at which time testimony was received, exhibits filed, the matter submitted on briefs duly filed with the Commission, and it is now ready for decision.

Frank H. Holloway, doing business as Vallejo Express Company, appeared in protest to the granting of this application, and Southern Pacific Company and Pacific Motor Trucking Company entered appearances as interested parties. The Vallejo Chamber of Commerce, through its Secretary-Manager, appeared in opposition to the application.

Briefly, applicant herein requests authority permitting performance of a store-door pickup and delivery service at all points which it is now authorized to serve ⁽¹⁾ under its certificate of public convenience and necessity, as a highway common carrier, heretofore granted by Decision No. 30086.

The facts of record show that neither applicant, its predecessors, nor its connecting carriers, ever performed or offered to perform other than a terminal to terminal service between Vallejo, on the one hand, and San Francisco and Oakland, on the other hand.

At the inception of its presently operated automotive service in September, 1937, applicant expressly agreed and stipulated that within the pickup and delivery zone about Vallejo, Mare

(1) As presently restricted, applicant is not precluded from performing a pickup and delivery service in Vallejo for traffic originating north thereof along its line.

Island and environs, no pickup and delivery service would be rendered on any traffic having either point of origin or destination in San Francisco or Oakland. Such a stipulation was predicated upon a belief that applicant would succeed to at least fifty (50) per cent of its predecessor's connecting carriers' water-borne traffic between Bay points and Vallejo. In citing this conclusion of applicant, it appears pertinent to bear in mind that prior to September 7, 1937, San Francisco and Napa Valley Railroad never transported any freight, nor did it participate in the handling of any freight, originating at, or destined to, points Vallejo, on the one hand, and San Francisco and Oakland, on the other hand.

It now appears from the record that applicant's judgment, in the light of subsequent developments, was erroneous. Applicant, far from retaining fifty (50) per cent of the tonnage as above described and depended upon, alleges that it has been able to hold little, if any at all, of this traffic. The loss of this traffic (transportation of which was counted upon to furnish a considerable portion of applicant's revenue) is attributed almost in its entirety to the inability of the company to offer a pickup and delivery service at Vallejo, San Francisco and Oakland on freight having either point of origin or destination at said points. Applicant alleges that such service is considered an integral part of, and absolutely necessary to, the successful operation, or even continued existence, of transportation entities primarily dependent, as is this applicant, upon less-than-carload traffic.

The city of Vallejo, at the present time, is being given

(2) Monticello Steamship Company, subsequently succeeded by Southern Pacific Golden Gate Ferries, Ltd., now defunct.

a direct, twice daily, overnight automotive service, including pickup and delivery, by F. E. Holloway, doing business as Vallejo Express Company, ⁽³⁾ a certificated carrier personally operating since the early part of 1933 in the territory here involved. More recently, there has been established an alternative service, using both vessel and truck, by Napa Transportation Company, and combined rail and truck service by Southern Pacific Company and Pacific Motor Trucking Company. Both Napa Transportation Company and Southern Pacific Company have long been serving in this general territory by water and rail, respectively. The last named two, according to the record, render a pickup and delivery service in Vallejo.

Obviously, on the record herein, there can be no question as to the adequacy of the service being rendered by the carriers in question. And quite as obviously, no attempt was made by applicant to disparage or dispute the quantity, quality or general sufficiency of said services as now operated by the various entities described.

These factors having been disposed of, there remains only the equities of the matter to be considered, together with the contention of protestant Holloway that granting of the authority herein sought would seriously affect his ability to maintain his existing scheduled service at its present level, if the expected diversion, ⁽⁴⁾ of traffic to San Francisco and Napa Valley Railroad occurs under the unrestricted operation proposed.

Referring first to protestant's contention, I am not

(3) In the transportation business more than forty (40) years in the vicinity of Vallejo.

(4) San Francisco traffic only, as protestant Holloway does not serve Oakland and has offered no objection to applicant being afforded relief to that point.

convinced upon this record that the anticipated diversion of traffic will seriously impair or interfere with his ability to continue his present standard of service. Protestant, himself, was not certain as to the extent of diversion, if any, which might be anticipated, and appeared concerned principally with an expected adverse effect upon a noonday schedule principally operated to take care of perishable shipments to the Naval Hospital on Mare Island and to naval vessels stationed there. Protestant has, in recent years, considerably strengthened and liberalized his operations through the medium of establishing routes via both the Golden Gate and San Francisco - Oakland Bay Bridges, which enables him to operate a much more expeditious and faster service than could heretofore be given. In fine, I see no adverse competitive conditions resulting should the authority herein sought be granted.

As to the equities of the matter, I am constrained to the belief that applicant's only opportunity to continue successfully to operate rests upon being afforded the opportunity to modernize its operations by establishing a pickup and delivery service, as prayed for, and which appears so vitally necessary to transportation companies if they are successfully to conduct their businesses. That applicant should, through an error in judgment, be obliged to face an almost total loss of its principal source of traffic and be placed in a position where, under such a handicap, it may be forced to relinquish its operations, seems too harsh a penalty for the error committed and not in the interest of the public patronizing this carrier.

I am of the further opinion that since the Commission

found that public convenience and necessity required the certification of applicant between Vallejo, on the one hand, and San Francisco and Oakland, on the other hand, it would appear to be an unnatural interpretation of this record to withhold the apparently necessary authority which will enable this operator more fully to discharge its duties to the public under its certificate.

Being of the opinion that the said application should be granted, I therefore recommend the following form of order:

O R D E R

Public hearing having been had in the above-entitled proceeding, evidence having been received, the matter having been duly submitted, and the Commission being now fully advised:

IT IS ORDERED that the order in Decision No. 30086, in so far as it applies to the applicant herein, be and it is hereby amended to read as follows:

"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, over and along the following route:"

