

Decision No. 35402

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Supplemental Application of )  
PACIFIC FREIGHT LINES and VALLEY MOTOR LINES, INC., )  
for an amendment to their present certificates of ) Application  
public convenience and necessity, to allow the ) No. 19266  
alternate routing of vehicles between Los Angeles ) (Supplemental)  
and San Francisco Bay points, via U.S. Highway 101(1) )

WALLACE K. DOWNEY, for Applicants.

ANSEL WILLIAMS, JR., for Southern Pacific Company,  
Pacific Motor Trucking Company, Protestants.

EDWARD STERN, for Railway Express Agency, Inc.,  
Protestant.

DOUGLAS BROOKMAN, for Valley & Coast Transit  
Company, Coast Line Express, California Motor  
Express Company, Ltd., and California Motor  
Transport Co., Ltd., Protestants.

G. E. DUFFY and G. T. HURST, for The Atchison,  
Topeka & Santa Fe Railway Company, Protestant.

BY THE COMMISSION:

O P I N I O N

By supplemental application in this matter Valley Motor Lines, Inc., and Pacific Freight Lines seek authority to transport property as underlying carriers for Valley Express Co., over the

(1) In the application originally filed in this proceeding, the title was as follows:

In the Matter of the Application of VALLEY MOTOR LINES, INC., a corporation, and MOTOR FREIGHT TERMINAL COMPANY, a corporation, to interchange equipment at Fresno, California, in connection with the transportation of property between Fresno and Los Angeles, for VALLEY EXPRESS CO., an express corporation, without transferring loadings from the equipment of one applicant company to the equipment of the other applicant company.

The applicant therein, Motor Freight Terminal Company, has since changed its corporate name to Pacific Freight Lines.

the Coast Route between San Francisco and Los Angeles, via San Luis Obispo as an alternative to the present route through the San Joaquin Valley, via Fresno. Permission is sought to interchange equipment between the two applicants at San Luis Obispo instead of Fresno as at present. With the exception of San Jose, applicants offer to serve no intermediate point; otherwise, the service will be confined to the transportation of through traffic for the express company between the terminals of Los Angeles and San Francisco.

The granting of this application was protested by Valley & Coast Transit Company, California Motor Transport Co., Ltd., California Motor Express Company, Ltd., Railway Express Agency, Inc., Southern Pacific Company, Pacific Motor Trucking Company, and The Atchison, Topeka & Santa Fe Railway Company.

A public hearing was had before Examiner Austin at Los Angeles, on June 20, 1939, and at San Francisco, on August 22, 1939, when evidence was received, the matter was submitted on briefs since filed, and it is now ready for decision.

This matter had its inception in a supplemental application filed in the above-entitled proceeding. The original application filed by the same applicants sought authority to interchange, at Fresno, the equipment of these carriers which contained traffic transported for Valley Express Co. as an overlying carrier. The authority sought was granted by Decision No. 26942, dated April 16, 1934, as modified by Decision No. 27053, dated May 14, 1934. The equipment interchanged pursuant to that decision contains not only through traffic moving between the terminals of Los Angeles and San Francisco but also shipments transported between points on or beyond lines of one underlying carrier and points on or beyond the

lines of the other. In this respect it differed from the present application which, with the single exception of San Jose, seeks to handle traffic between San Francisco and Los Angeles only.

Under certificates previously granted by the Commission, the applicant Valley Motor Lines, Inc., operates as a highway common carrier over various routes, serving many points within this state. Among other places, it provides such a service between San Francisco and Fresno as an underlying carrier for Valley Express Co., an express corporation, as defined by section 2 (k) Public Utilities Act. Both of these carriers are controlled by the same interests. Applicant Pacific Freight Lines operates as a highway common carrier pursuant to certificates granted by this Commission over various routes, serving many points in this state, among other places it operates between Los Angeles and Fresno transporting traffic as an underlying carrier for Valley Express Co. It also operates as a highway common carrier over the Coast Route between Los Angeles and San Luis Obispo.

The protestant Valley & Coast Transit Company operates as a highway common carrier over the Coast Route between San Francisco, King City, and San Luis Obispo, and points as far south as Lompoc. Protestant Coast Line Express, controlled by the same interests, operates as an express company over the lines of Valley & Coast Transit Company.

The protestant California Motor Transport Co., Ltd., operates between San Francisco Bay points and Los Angeles only, as a highway common carrier transporting only the traffic of protestant California Motor Express Company, Ltd., an express corporation,

(2)  
controlled by the same interests. With the Commission's sanction these carriers were authorized to engage in a similar service over the Valley Route between Los Angeles and San Francisco, as an alternative to the Coast Route.

In support of their proposal, the applicants assert it will result in substantial improvements in the service, it will permit them to effect some economies, and it will enable them better to compete with other carriers in handling through traffic between the terminals. More particularly, they assert that by the use of this alternative route they can avoid delays due to the severe grades existing on the Ridge Route, to storms encountered in the Tehachapi Mountains and to heavy fogs which prevail in the Valley during the winter season. Because of the lower summer temperatures said to prevail on the Coast than in the San Joaquin Valley, applicants will find it possible to transport perishables which cannot be handled now. At present, they contend, due to arrangements with the unions governing wages and driving conditions, the operating time between San Francisco and Los Angeles, via the Valley Route, is approximately three hours longer than that required to traverse the Coast Route. This, they assert, places them at a serious competitive disadvantage. These claims were denied by the protestants, who contended, moreover, that Valley Express Co. could not be precluded by any condition incorporated in the certificate sought herein from transporting over the Coast Route shipments moving between intermediate points as well as between the terminals. We shall briefly refer to the evidence bearing upon these contentions.

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(2) This operation was authorized by Decision No. 27063, on Application No. 19436, dated May 21, 1934, rendered ex parte. See also Decision No. 28401, on Application No. 20093, dated December 2, 1935.

The two major highway arteries between San Francisco and Los Angeles (U.S. Highway No. 99 via Fresno and U.S. Highway No. 101 via San Luis Obispo) are each paved to a high standard of construction. (3) Each of these highways attracts a large volume of vehicular traffic. In comparing the grade and alignment of the Valley with the Coast Route, it can be said the two Valley Routes have some advantage over the Coast Route from a truck transportation standpoint in that they have a larger percentage of practically straight level highway; on the other hand, the grades over the summits are more severe on the Valley Routes than on the Coast.

The record shows that in the San Joaquin Valley, tule fogs occur throughout the winter months, greatly impairing visibility with the attending added increase in driving hazard particularly for higher speeds. Though fogs are encountered upon the Coast Route, the record indicates that they are less severe than those in the Valley.

High temperatures persist throughout the summer months in the area traversed by both the Valley and Coast Routes, but reach higher levels in the San Joaquin Valley and endure for longer periods than obtain along the Coast.

Applicants' witnesses testified that because of the danger of loss through spoilage they have rejected shipments of perishables, such as fresh meats and vegetables, offered during the summer months. The record shows that some claims have been presented for damages

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(3) The distances between San Francisco and Los Angeles are:

Via Coast Route (San Luis Obispo) 442 miles.  
Via Valley Route (Pacheco Pass, Fresno) 417 miles.  
Via Valley Route (Altamont Pass, Fresno) 407 miles.

suffered by shipments transported through the Valley. It should be stated, however, that some of these commodities have not been transported by truck operators without refrigeration over either the Valley or Coast Route during the summer months. It was suggested by protestants that applicants could offer such a service by providing refrigerator trucks for their Valley run. To such proposal, applicants stated the traffic is not of sufficient volume to warrant the investment which would be required to provide this type of equipment. Furthermore, it was alleged that practical difficulties would be encountered in the interchange of equipment between the two applicants arising from the inadaptability of the tractor power units to the refrigerator trailers.

The record shows that under prevailing conditions the time consumed in driving a truck between San Francisco and Los Angeles via either of the Valley Routes is from 18 to 19 hours. On the Coast Route the elapsed time is 16 hours. The prevailing wage scale of applicant Valley Motor Lines is \$8 a day for 8 hours work. That of the Pacific Freight Lines is \$1 per hour. Therefore, a saving in the item of driver's expense of from \$2 to \$3 can be effected by employing the Coast as compared to the Valley Route.

It appears from the record that because of the late arrival of shipments in San Francisco, applicants suffer still other

disadvantages. Though the drivers employed in the delivery service must report for work not later than 9:00 a.m., shipments usually are not available for delivery until late in the forenoon or even noon. Earlier arrival of the main line trucks would reduce the substantial cost now incurred for this idle time. Due to their inability to effect early and expeditious delivery of traffic, applicants are subject to competitive disadvantages and handicaps. These delays, it appears, have been the subject of many complaints on the part of shippers. The protestants operating over the Coast Route enjoy substantial advantages because of the shorter time required for their operations. Thus, the protestants California Motor Transport Co., Ltd., and California Motor Express Company, Ltd., can provide a 15-hour service between the terminals. It also appears that the rail service between those points is more expeditious than applicants' present operation.

Coast Line Express, an express corporation, operates over the lines of both Valley & Coast Transit Company, its affiliate, and Pacific Freight Lines, handling traffic moving between points served by both these carriers, including the terminals of Los Angeles and San Francisco; however, the testimony shows that generally this service was not as expeditious between the terminals as that provided by applicants via their Valley operations.

Their equipment, however, is not interchanged, and it does not appear that either carrier has offered to enter into such an arrangement.

No limitation, so the protestants contend, can be imposed upon Valley Express Co. which could impair its obligation to receive and deliver shipments at all points published in its tariffs. Hence, it is asserted the proffered stipulation limiting the proposed service to the transportation of through traffic cannot lawfully be consummated or given effect. But this contention loses sight of the principle of restrictiveness which, as we have pointed out from time to time, conditions and permeates certificates of public convenience and necessity governing the operations of highway common carriers. To regulate adequately carriers of this type, it is essential that limitations be applied, wherever necessary, to prevent undue expansion of their operative rights. This the Commission may do, and frequently has done, to insure the existence of adequate service for the public and to protect the equities of competing carriers. (4)

The Commission has ample power, as we see it, to limit both an underlying carrier and an express carrier with respect to the points to be served by either, along any new route authorized, as herein provided. Thus, the protestants will be protected against undue competition.

There is ample authority to permit the establishment of such an alternative route where this appears to be essential in the public interest. As we have stated such a privilege was granted to the protestants California Motor Transport Co., Ltd., and California

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(4) In re Anderson, Decision No. 32029, 42 C.R.C. 15, 21.



Motor Express Company, Ltd. These carriers were authorized to conduct their service through San Joaquin Valley, via Pacheco Pass, as well as by the Coast. Other cases are cited in the margin.<sup>(5)</sup> In our judgment, public interest clearly warrants the establishment of the alternative route sought.

The facts also disclose that public interest will be served by permitting the interchange of equipment between the applicants at San Luis Obispo. By so doing they will be enabled to effect economies and substantially to improve their service.

Though applicants have requested that they be permitted to transport, via the Coast, traffic originating at, or destined to, San Jose or points beyond, the evidence, we believe, does not justify the approval of this request. At present, it seems desirable to limit this service to the transportation of traffic moving between the terminals of Los Angeles and San Francisco.

We find the facts to be as follows:

(a) That public interest will be subserved by the establishment by Valley Motor Lines, Inc., and Pacific Freight Lines, of an alternative route between San Francisco and Los Angeles, via U.S. Highway No. 101, over which they may engage in the transportation of property as underlying carriers for Valley Express Co., an express corporation, between said terminals of San Francisco and Los Angeles only.

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(5) Re Valley Motor Lines, Inc., Dec. No. 26942, on App. No. 19266, as modified by Dec. No. 27053 (rendered in the instant proceeding); Re Redwood Motor Freight, Dec. Nos. 27545, 27662 and 32565, on App. No. 19666; Re Pacific Motor Truck Co. and McCloud RR Co., Dec. No. 29976, on App. No. 21342; Re Coast Truck Line, Dec. 14590, on App. No. 10818.

(b) That public interest requires that, in the performance of the service described in the preceding paragraph of these findings, the applicants Valley Motor Lines, Inc., and Pacific Freight Lines be permitted to interchange equipment at San Luis Obispo.

The application, accordingly, will be granted.

O R D E R

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

IT IS HEREBY ORDERED that Valley Motor Lines, Inc., and Pacific Freight Lines, applicants herein, be and they are hereby authorized to operate over the route hereinafter described, as an alternative route to that now used by them throughout the San Joaquin Valley, via Fresno, for the transportation, as underlying carriers of property only for Valley Express Co., an express corporation as defined by section 2(k) Public Utilities Act, between San Francisco and Los Angeles only, and not between said terminals, or either of them, and any intermediate point, nor between any points intermediate to said terminals. Said operations may be conducted between San Francisco and Los Angeles over the Coast Route, U. S. Highway No. 101, via San Luis Obispo.

IT IS HEREBY FURTHER ORDERED that said Valley Motor Lines, Inc., and Pacific Freight Lines, be and they are hereby authorized,

in connection only with the transportation of express matter for said Valley Express Co., between San Francisco and Los Angeles only, over the alternative route hereinabove described, to interchange equipment with one another at San Luis Obispo so as to permit the through transportation of traffic between said terminals without a transfer of traffic from one vehicle to another, and that to accomplish this purpose applicants may reciprocally lease to one another, in accordance with General Order No. 93, such equipment as may be necessary to accomplish such interchange of equipment.

IT IS HEREBY FURTHER ORDERED that in all other respects said supplemental application be and it hereby is denied.

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

Dated at San Francisco, California, this 13<sup>th</sup> day of August, 1940.

Ray L. Riley  
James D. Quinn  
Robert W. Waberski  
W. H. Kelly  
James P. Quince  
COMMISSIONERS