

Decision No. 39270

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of RAILWAY)
 EXPRESS AGENCY, INC. OF CALIFORNIA, for a)
 certificate of public convenience and neces-)
 sity to operate motor vehicles for the)
 transportation of express matter for Railway)
 Express Agency, Inc., or its successors;)
 also for the transportation of milk, cream,)
 etc., and baggage for the Southern Pacific)
 Company between Santa Cruz, Watsonville)
 Junction, and intermediate points, via)
 Capitola, California.)

Supplemental
 Application
 No. 18163

EDWARD STERN, for Applicant

J. V. NICHOLSON, for Highway Transport, Inc.,
 Protestant.

BY THE COMMISSION:

SUPPLEMENTAL OPINION

By supplemental application filed April 15, 1940, as amended, Railway Express Agency, Inc. of California, seeks a certificate of public convenience and necessity authorizing operation as a highway common carrier of express traffic for Railway Express Agency, Inc. of Delaware, and that class of traffic⁽¹⁾ ordinarily handled in baggage or milk cars of passenger or mixed trains, including passengers' baggage, for Southern Pacific Company, between Santa Cruz, Capitola, Aptos, Watsonville, and Watsonville Junction, serving intermediate points. All of the points proposed to be served are stations on the Santa Cruz branch line of the Southern Pacific

(1) Such traffic consists principally of milk, cream, cheese, unflavored ice cream mix, including empty containers therefor, and passengers' baggage.

Company. Highway Transport, Inc. opposed granting of the application.

Applicant is a wholly owned subsidiary of the Railway Express Agency, Inc. of Delaware, an express corporation operating nation-wide services, for whom it transports express traffic as an underlying highway carrier between various points in California. Property is also transported for rail lines over some of applicant's regular routes. The authority here sought is between the same points that applicant presently serves as a limited common carrier of agricultural products moving as express matter under certain restrictions. (2)

The rates to be charged the public for transportation services proposed to be performed will be those published in the tariff schedules of Railway Express Agency, Inc. of Delaware, and Southern Pacific Company in effect and on file with the Commission. Applicant will transport express traffic as an underlying carrier on a contractual basis with its parent company, and transport baggage and milk car traffic under joint rate arrangements with the Southern Pacific Company by concurrence in its tariff schedules.

A public hearing was had before Examiner Differding at Santa Cruz on June 20, 1940, evidence received, the matter submitted, and it is now ready for decision.

(2) By Decision No. 24813 in Application No. 18163, rendered May 25, 1932, applicant was granted authority to operate as a highway common carrier between Watsonville Junction and Santa Cruz and intermediate points for the transportation of commodities "limited to products of agriculture consigned for shipment over the lines of Railway Express Agency, Inc. of Delaware, and its stations at points served only and for no other service; and only for shipments when consigned to points south of Watsonville Junction; and only for the period April 1st to August 1st, inclusive, of each year ***."

The Delaware corporation formerly handled the bulk of its express traffic from and to the territory involved on passenger trains over the San Jose-Santa Cruz branch line of the Southern Pacific Company until train schedules were annulled about February 27, 1940, between Los Gatos and Santa Cruz due to slides and washouts. This was also the rail route used by the Southern Pacific Company for handling its baggage and milk car traffic. Authority to permanently discontinue all scheduled passenger service on, and abandonment of, a portion of said branch line has since been granted to the Southern Pacific Company. (3)

Upon withdrawal of scheduled passenger train service, the traffic considered has since been handled by passenger stages operating between Santa Cruz on the one hand and Los Gatos and Watsonville Junction on the other hand, connections being made at the latter two points with passenger trains of the Southern Pacific Company. Such traffic as cannot be handled on the stages for lack of sufficient space to accommodate the volume offered, or because of size, weight, or perishable nature of the shipment, must be routed via Watsonville Junction and moved between that point and Santa Cruz on freight trains. No scheduled passenger train service is operated over the branch line between Watsonville Junction and Santa Cruz which the applicant's proposed truck operation will parallel.

Applicant proposes to conduct the motor vehicle operation as supplementary and auxiliary to, and coordinated with, the service

(3) In Finance Docket No. 12815, decided October 31, 1940, the Interstate Commerce Commission authorized abandonment of that portion of the San Jose-Santa Cruz branch line between Los Gatos and Olympia. Subsequently, we authorized the permanent discontinuance of all scheduled passenger train service over the same line between Olympia and Santa Cruz by Decision No. 33692 in Application No. 23372, rendered December 3, 1940.

over the rail line. The coordinated service contemplates that the traffic involved, except that moving locally between points on the proposed truck route, will be handled over the rail line via Watsonville Junction and interchanged with applicant at that point. Local traffic consists only of an occasional express shipment, and this would be handled entirely by truck. Daily service will be provided with two schedules operated in each direction. No new or additional points will be served by the proposed truck operation.

It is the position of applicant that the present stage and freight train service is inadequate to meet the needs of the shipping public. Shipments consisting of bulky or heavy packages of merchandise; perishable commodities, such as baby chicks, live poultry, fresh fish and other wet goods, milk, cream, cheese and other dairy and food products; and large or heavy pieces of baggage, such as steamer trunks, sample cases, and theatrical equipment, of which there is a substantial volume, cannot be readily and properly handled by stage because the equipment is not designed for that purpose and available space is limited in any event.

Some of the perishable commodities require careful and expert handling with adequate facilities for proper ventilation and protection against heat or cold. It is said the inability to furnish the care and handling necessary for safe transportation on stages and freight trains has caused perishable goods to become damaged in transit in many instances, and considerable difficulty experienced in fixing responsibility therefor. There has also been, it is claimed, substantial delays in the movement of traffic here considered through the interchange points under the present method of operation, because of difficulty in arranging and adjusting schedules of stage and rail services which are necessarily more or less inflexible and operated primarily to serve other purposes.

It is the contention of applicant that not only would the deficiencies in the present service be eliminated by the proposed coordination of truck and rail schedules, but an improved and more expeditious service would result. It is urged such a result can best be accomplished and made fully responsive to the public needs by the applicant rather than by means of an independent truck carrier who may now be operating in the field.

An analysis of the exhibits of record show that more than 47,000 express shipments annually are forwarded from and delivered to the points involved. Approximately 71 per cent of these shipments move in intrastate commerce. Perishable commodities constitute 43 per cent of this traffic. Shipments of milk, cream, and other dairy products also move in substantial volume, the City of Santa Cruz alone shipping and receiving about 1,790 shipments totaling approximately 325 tons on an annual basis.

Highway Transport, Inc., a highway common carrier operating over the route proposed to be served by applicant, appeared as a protestant and offered testimony to the effect that it was ready and willing to provide such service as would be necessary to handle the traffic. This proposal was not supported by any evidence to show that protestant would be able to furnish the proper equipment to safely and adequately handle the traffic considered in straight loads or mixed loads with its own freight, nor to meet the needs of coordination with the rail service in adjustment of schedules and interchange arrangements which expeditious and dependable service would require. Moreover, protestant did not make any showing that the granting of the authority sought would in any way impair its present operation. The territory involved has been served by the Delaware corporation and its predecessors for seventy years over the

rail lines of the Southern Pacific Company. Though protestant may meet with some competition from the Delaware corporation and Southern Pacific Company on a portion of the traffic involved, it does not appear such competition has been particularly formidable in the past nor that it will be under the proposed plan of applicant.

There does not appear to be any question but that the coordinated rail-and-truck service, as proposed by applicant, will be in the public interest. It will result in an improved and more dependable and flexible service for the handling of express shipments, as well as those shipments moving in baggage and milk cars.

The facts of record clearly warrant the conclusion and we find that public convenience and necessity require the furnishing by applicant over the considered route of motor truck service supplementary and auxiliary to, and coordinated with, rail, express, baggage, and milk car service, but it does not establish a need for service by applicant which is not required in such coordinated operation. The certificate herein granted will be limited accordingly.

SUPPLEMENTAL ORDER

Railway Express Agency, Inc. of California, having made application as above entitled, a public hearing having been held, evidence received, the matter submitted, and the Commission being now fully advised and it finding as a fact that public convenience and necessity so require;

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and it is hereby granted to Railway Express Agency, Inc. of California, authorizing the establishment and operation of a highway common carrier service, as such term is defined in

Section 2-3/4 of the Public Utilities Act, between Santa Cruz, Capitola, Aptos, Watsonville, and Watsonville Junction, serving intermediate points, including the right to render store-door pick-up and delivery service at any and all of said points hereinabove named, as an extension and enlargement of the operative rights heretofore created by the Commission's Decision No. 24813, dated May 25, 1932, in Application No. 18163; subject, however, to the following conditions:

- A. The service to be performed by applicant shall be limited to that which is auxiliary to, or supplemental of, the rail baggage and milk car service of the Southern Pacific Company and the rail express service of the Railway Express Agency, Inc. of Delaware.
- B. Applicant shall not render service to or from, nor interchange traffic at, any point not a station on the rail line of the Southern Pacific Company.
- C. Applicant shall be limited (1) to the transportation of shipments moving in baggage and milk cars which it receives from or delivers to the Southern Pacific Company under joint rate arrangements; and (2) to the transportation of express shipments for the Railway Express Agency, Inc. of Delaware, under contract.
- D. Applicant may render store-door pickup and delivery service at points hereinabove named only within the pickup and delivery zones for each respective point as described and published in the tariff or tariffs of the Southern Pacific Company and the Railway Express Agency, Inc. of Delaware, currently on file with this Commission and in effect.

IT IS HEREBY FURTHER ORDERED that in the operation of said highway common carrier service pursuant to the foregoing certificate, Railway Express Agency, Inc. of California shall comply with and observe the following service regulations:

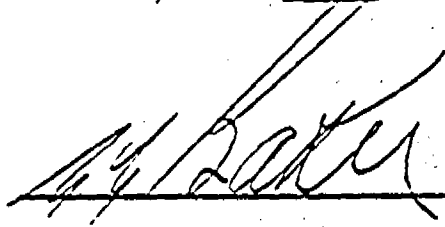
1. File a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
2. Subject to the authority of this Commission to change or modify such at any time by further order, applicant shall conduct the highway common carrier operations herein authorized over any and all available public highways between termini.

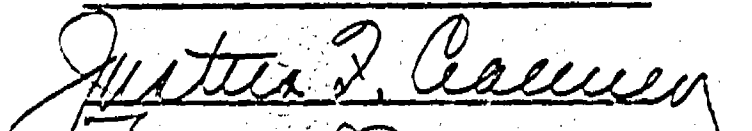
3. Applicant shall, within thirty (30) days from the effective date of this order and upon not less than five (5) days' notice to this Commission, file in triplicate a tariff or tariffs containing rates and rules identical in volume and effect with those proposed, or giving reference by C.R.C. number to currently effective tariffs in which the charges to the public will be found.
4. File in duplicate, within a period of not to exceed thirty (30) days from the effective date of this order, copies of any contract or contracts entered into between applicant and the Railway Express Agency, Inc. of Delaware, pursuant to the authority hereinabove granted.
5. Comply with the provisions of Part IV of General Order No. 93-A within thirty (30) days from the effective date of this order and upon not less than five (5) days' notice to the Commission and the public.


IT IS HEREBY FURTHER ORDERED that the instant application in all other respects be, and it is, hereby denied.

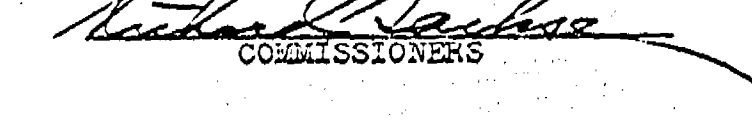
The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 27th day of May, 1941.









COMMISSIONERS