

Decision No. 22-200

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) Supplemental
public convenience and necessity, to allow the) Application
alternate routing of vehicles between Los Angeles (1) No. 19266
and San Francisco Bay points, via U. S. Highway 101.)

ORIGINAL

WALLACE K. DOWNEY and W. S. JOHNSON, for
Applicants Pacific Freight Lines and Valley
Motor Lines, Inc.

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

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

DOUGLAS BROOKMAN and REGINALD L. VAUGHAN, 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:

SUPPLEMENTAL OPINION

By their supplemental application in this proceeding,

(1) The application originally filed in this proceeding was
entitled 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
ladings from the equipment of one applicant company to
the equipment of the other applicant company.

Applicant Motor Freight Terminal has since changed its
corporate name to Pacific Freight Lines.

(2)
Pacific Freight Lines and Valley Motor Lines, Inc., highway common carriers as defined by section 2-3/4, Public Utilities Act, seek authority to engage in the transportation of traffic as underlying carriers for Valley Express Co., an express corporation as defined by section 2(k), Public Utilities Act, over the Coast Route via U. S. Highway No. 101 between San Francisco (3) and Los Angeles as an alternative to the Valley Route over which they now operate. In the performance of this service, equipment would be interchanged at San Luis Obispo in the same manner as at Fresno under their present method of operations. Excepting San Jose, no points intermediate to the terminals of Los Angeles and San Francisco would be served.

The application was protested by Valley & Coast Transit Company, Coast Line Express, California Motor Transport Co., Ltd., California Motor Express, Ltd., Railway Express Agency, Inc., Southern Pacific Company, Pacific Motor Trucking Company, and The Atchison, Topeka & Santa Fe Railway Company. Valley & Coast Transit Company operates as a highway common carrier over the Coast Route between San Francisco and San Luis Obispo and points south, serving also certain intermediate points, and connecting with Pacific at San Luis Obispo. Coast Line Express, an express

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- (2) For brevity, we shall sometimes refer to applicants Pacific Freight Lines and Valley Motor Lines, Inc., as Pacific and Valley, respectively. Also, the principal routes involved, viz.: the San Joaquin Valley Route, U. S. Highway No. 99, and the Coast Route, U. S. Highway No. 101, will sometimes be designated as the Valley Route and the Coast Route, respectively.
- (3) The record, though not entirely clear in this respect, indicates that applicants desire to serve East Bay points as a terminal, as well as San Francisco. Valley Motor Lines, Inc., under existing operative rights, may now serve Oakland, Alameda, Berkeley, Emeryville and San Leandro. Hereafter, reference to San Francisco shall be deemed to include such East Bay points.

corporation, controlled by Valley & Coast Transit Company, operates over the lines of that carrier and Pacific between Los Angeles and San Francisco. California Motor Transport Co., Ltd., a highway common carrier, operates between San Francisco Bay points and Los Angeles over the Coast and the Valley Routes, handling only the traffic of California Motor Express Ltd., an express corporation controlled by the same interests. Southern Pacific Company serves San Francisco and Los Angeles over its Valley and Coast Routes, its affiliate Pacific Motor Trucking Company providing a coordinated truck service at certain points. Atchison, Topeka & Santa Fe Railway Company serves points throughout the Valley. Railway Express Agency, Inc. operates as an express corporation over the rail lines.

At the original hearing, evidence was introduced by the parties in support of and in opposition to applicants' contention that were they permitted to use the proposed alternate route substantial improvements and economies in the service would be effected and their competitive position improved.

The matter was briefed and submitted, and by Decision No. 33407, rendered August 13, 1940, the application was granted. Here we found: (a) that public interest would be subserved through the establishment by applicants of an alternate route between San Francisco and Los Angeles, serving these terminals only, via U. S. Highway No. 101, for transporting property as underlying carriers for Valley Express; and (b) that public

(4) Though originally certificated to operate over the Coast Route, California Motor Transport Co., Ltd. was authorized subsequently to operate via Pacheco Pass and the Valley as an alternate route. This authority was granted by Decision No. 27063, dated May 21, 1934, on Application No. 19436.

interest required that in the performance of this service applicants should be permitted to interchange equipment at San Luis Obispo. The order authorized applicants to conduct such an operation over the Coast Route, as an alternative to the service over the Valley Route, and to interchange equipment at San Luis Obispo.

Protestants Valley & Coast Transit Company, Coast Line Express, California Motor Transport Co., Ltd., and California Motor Express, Ltd. seasonably filed their joint petition for rehearing, thus staying the effectiveness of the decision. Oral argument was had September 30, 1940 at San Francisco, upon the issues raised in the petition.

As grounds for rehearing, petitioners (referred to hereafter as protestants) assert:

(1) That public convenience and necessity justifying the proposed service were neither found nor declared to exist by Decision No. 33407, and that the order, therefore, is violative of section 50-3/4, Public Utilities Act.

(2) That the evidence fails to show the existence of public convenience and necessity, justifying the establishment of the proposed service.

(3) That certain statements appearing in the decision (denominated by protestants as findings) are contrary to and not supported by the evidence.

(4) That protestants should be afforded an opportunity to present additional evidence concerning the matters referred to in paragraph (3).

(5) That the decision extends beyond the scope of the issues framed by the supplemental application, and for that reason is erroneous.

(6) That should any interchange of equipment between highway common carriers at San Luis Obispo appear to be necessary and in the public interest, it should be provided by the existing carriers, viz.: Valley & Coast Transit Company and Pacific Freight Lines, rather than by a new carrier, thus avoiding the disadvantages to which the existing carriers otherwise would be subjected.

(7) That the decision is repugnant to the due process and the equal protection provisions of both the State and the Federal Constitutions.

We shall consider these contentions, though not in the order stated.

Extent to Which the Decision is Founded upon a Finding or Declaration of Public Convenience and Necessity

We shall deal first with the question whether Decision No. 33407 is vulnerable to the stated objection that it was not predicated upon any finding or declaration of public convenience and necessity. Protestants contend that Valley may be authorized to engage in the proposed service between San Francisco and San Luis Obispo only through the medium of a certificate of public convenience and necessity. The decision, they assert, is erroneous in that it contains no finding or declaration of public convenience and necessity, nor does it purport to grant any certificate. On the contrary, they aver that the decision found merely that the "public interest" would be served by the establishment of an alternate route, coupled with the privilege of interchanging equipment at San Luis Obispo. For these reasons, protestants contend, the order was repugnant to section 50-3/4, Public Utilities Act.

A brief description of the operations conducted by applicants, and those in which they propose to engage, will tend to clarify the issue. Under certificates previously granted, Valley operates as a highway common carrier between San Francisco and Fresno, and Pacific so operates between Fresno and Los Angeles. Between San Francisco and Los Angeles they operate over the Valley Route as underlying carriers for Valley Express Co., which in turn serves this territory as an express corporation. In the performance of this service equipment is interchanged at

Fresno pursuant to authority granted by Decision No. 26942
(as modified), rendered in the instant proceeding April 16, 1934.

Over the Coast Route between Los Angeles and San Luis Obispo, Pacific has been certificated to serve as a highway common carrier but Valley holds no such operative authority over that route between San Francisco and San Luis Obispo. By the present application Valley proposes such an operation, handling, in conjunction with Pacific, express traffic as an underlying carrier for Valley Express Co. moving only between the terminals of San Francisco and Los Angeles⁽⁵⁾. This is the service applicants were authorized by Decision No. 33407 to perform. By that decision, we held, in effect, that the through operation to be conducted jointly by both carriers via the Coast Route should be considered as alternative to the existing service provided by applicants collectively over the Valley Route.

We may lay aside as of no controlling significance here the circumstance that applicants would limit their service to that of underlying carriers for an express corporation. In respect to the requirement of certification, a highway common carrier operating in that capacity stands in no different position than one serving the public directly. To be eligible to operate as an underlying carrier for an express corporation, a motor carrier, we have held, must himself possess a certificate as a highway common carrier. In the absence of such authority an operation of that character would be unlawful.⁽⁶⁾

(5) At the hearing, applicants sought to include San Jose as a point to be served, but Decision No. 33407 authorized them to serve only San Francisco and Los Angeles.

(6) Re Pacific States Express 22 C.R.C. 925; re Coast Truck Line 36 C.R.C. 856; re Freightways, Inc., Decision No. 30001, Ap. No. 20694, dated August 9, 1937. Citizens Truck Co. v Kagarise, Decision No. 26786, dated February 6, 1934, Case No. 3686.

This brings us to the fundamental question underlying this branch of our inquiry, viz.: may Valley in any manner other than through the agency of a certificate of public convenience and necessity be authorized to conduct its share of the through San Francisco - Los Angeles service, over the Coast Route between San Francisco and San Luis Obispo?

The granting of certificates of public convenience and necessity to highway common carriers is now controlled by section 50-3/4, Public Utilities Act. This provides, in part, that:

"(a) No highway common carrier shall hereafter operate or cause to be operated any auto truck, or other self-propelled vehicle not operated on rails, for the transportation of property as a common carrier for compensation on any public highway in this State except in accordance with the provisions of this act."

* * * * *

"(c) No highway common carrier shall hereafter begin to operate any auto truck, or other self-propelled vehicle, for the transportation of property for compensation on any public highway in this State without first having obtained from the Railroad Commission a certificate declaring that public convenience and necessity require such operation * * * * *"

The comprehensive language of this section leaves no room for doubt that the remedy therein provided is exclusive. In no other way may one now be authorized to initiate an operation over the public highways as a highway common carrier. It is elementary that the Commission possesses only the power vested in it by statute, either expressly or by implication. Clearly, then, in the creation of such an operative right, we must pursue the

(7) The mode of creating a prescriptive operative right is not before us here for consideration.

(8) Motor Transit Co. v Railroad Commission, 189 Cal. 573, 577.

method prescribed by statute. It follows that, in the absence of a certificate of public convenience and necessity, an operation of this character may not lawfully be established or conducted.

Consistently with the principle announced, may a highway common carrier holding a certificate to operate between certain points lawfully serve those points over a route differing from that which he has observed, without first having secured an additional certificate expressly authorizing such an operation? A highway common carrier, as defined by section 2-3/4(a), Public Utilities Act, comprises one operating motor vehicles over the public highways "between fixed termini or over a regular route" and not exclusively within the limits of an incorporated city. The terms employed in this definition, viz.: "between fixed termini," and "over a regular route," are used disjunctively. One must be deemed a carrier of this type should his operations fall within either of these categories.⁽⁹⁾ Therefore, a service may be certificated between specified points alone, leaving the determination of the route to the carrier's discretion.⁽¹⁰⁾

On the other hand, where both the points and the route have been designated by the certificate, the grant must be regarded as having been limited and circumscribed accordingly. Since operation without a certificate is forbidden, a carrier may not lawfully operate between the specified points over a route other than that so prescribed.

(9) Holmes v Railroad Comm. 197 Cal. 627, 639.

(10) It has been held that where a route was not defined in the certificate, it must be measured by the carrier's actual operations thereunder. After he had so determined the route, it cannot subsequently be changed without the Commission's consent. Re R. L. Kagarise, Decision No. 30406, dated December 13, 1937, Case No. 3990.

This limitation upon the Commission's authority has been recognized impliedly by some of our decisions dealing with operations over alternate routes. In certain instances, additional certificates were granted to permit operation over an alternate route. (11) And certificates have been expressly amended to authorize the interchange of equipment between highway common carriers, whether engaged in transporting traffic as underlying carriers for express corporations or serving the public directly. (12)

We are convinced that authority to operate over an alternate route, not within the scope of the original grant, must itself rest upon a certificate of public convenience and necessity. Though Pacific, as we have said, may lawfully operate between San Luis Obispo and Los Angeles, Valley holds no certificate authorizing service between San Francisco and San Luis Obispo. To operate between these points, whether as an underlying carrier for an express corporation or otherwise, it should possess such an operative right.

It may well be questioned whether this application, from the standpoint of Valley, may be viewed as one seeking an alternate route, since it requests no authority to operate between points which that carrier, standing alone, is now authorized to serve. Valley holds no certificate permitting operation between San Francisco and San Luis Obispo. And that carrier proposes no

(11) Re Coast Truck Line, Decision No. 14590, dated February 24, 1925, in Application No. 10818.

(12) Re Valley Motor Lines, Inc., Decision No. 26942, Application No. 19266 (rendered in the instant proceeding) as amended by Decision No. 27053; re Redwood Motor Freight, Decision No. 27545, as modified by Decision No. 32565, Application No. 19666; and re Pacific Motor Trucking Company and McCloud River Railroad Company, Decision No. 29976, Application No. 21342.

alternate route between San Francisco and Fresno. So far as Valley alone is concerned, there would be a gap, or open end, at San Luis Obispo. Only by considering the proposed operation as one to be performed by Pacific and Valley collectively could it be deemed to contemplate service over an alternate route. However, in determining the sufficiency of its certificated operative rights, each carrier, we believe, should stand alone.

We conclude that the authority sought by Valley can be conferred only through the instrumentality of a certificate of public convenience and necessity. Since Decision No. 33407 failed to grant such a certificate as a prerequisite to authorizing operation between San Francisco and San Luis Obispo, it was erroneous to that extent.

From this conclusion, it does not necessarily follow that there should be a further hearing in this matter. In the absence of any other compelling reason, it would be sufficient to incorporate in the decision a finding and declaration of public convenience and necessity, if the record affords convincing proof of the existence of that fact. We shall, therefore, examine protestants' contentions, to determine whether they would warrant the reopening of this proceeding for the taking of additional testimony.

First, we shall consider the contention that the decision extends beyond the scope of the issues presented.

Extent to Which the Decision is Responsive
to the Issues Presented

Protestants assert that Decision No. 33407 is erroneous in that it goes beyond the issues tendered. Specifically, they contend: (a) that the supplemental application contemplated that the alternate route via the Coast would be used only when safety

or efficiency would be served because of fog or extreme temperatures prevailing in the Valley; and (b) that such was the theory of applicants' case. We shall consider the issues framed by the pleadings.

The supplemental application describes the interchange arrangement at Fresno then observed by Valley and Pacific (Paragraph III); it alleges that applicants "desire to have the right to use an alternate route for the handling of such traffic, for Valley Express Co., by way of U. S. Highway 101, with point of interchange at San Luis Obispo;****" the right to use such alternate route to be in all respects similar to applicants' right to use their present Valley Route where vehicles are interchanged at Fresno (Paragraph IV); it assigns as reasons relied upon for the authorization of such an alternate route the following circumstances, viz.: that during the summer the high temperature encountered in the Valley has increased the difficulties of operation and has tended to damage perishable products; that during the winter, operations often have been impeded by fogs and low temperatures; and that "use of the alternate route, by way of San Luis Obispo, when such extremes of temperature exist, and foggy conditions exist in the San Joaquin Valley, would greatly increase the efficiency and safety of applicants' operations." (Paragraph V) Applicants pray that the Commission so amend applicants' present certificates "that they may use U. S. Highway 101, as an alternate route, in the handling of said traffic for Valley Express Co."

As we read this pleading, Paragraphs III and IV set forth the ultimate facts upon which applicants rest their case. Paragraph V is merely explanatory. It states some, but not necessarily all, of the reasons supporting the general allegations.

These specifications by no means limit the universality of the preceding paragraphs. In our judgment, the supplemental application is sufficiently comprehensive to support a finding and order sanctioning operations over the Coast Route at times other than those referred to in Paragraph V.

The record indicates that such also was the theory underlying applicants' presentation of their case. This appears from the opening statement of counsel representing applicants as well as from the testimony of executives dominating their operating policies. They testified that though service via the Valley would be continued, a regular service would also be conducted over the Coast Route. This would not be limited to occasions when high or low temperature, fog or adverse weather conditions were encountered in the Valley.

The pleadings and the issues framed at the hearing disclose applicants' proposal to be a service conducted regularly over the Coast Route. It was not confined to an intermittent operation. Our decision, therefore, did not go beyond the scope of the issues tendered.

Existence of Public Convenience and
Necessity Justifying the Proposed Service

The proposed service, so applicants contend, would be amply justified by public convenience and necessity. They assert that by the establishment of this alternate route, the through service between San Francisco and Los Angeles would be substantially improved; that economies would be effected; and that the public would benefit substantially. More specifically, they contend that operation over the Coast would obviate the delays now encountered in the Valley arising from arrangements with the

unions governing wages and driving conditions; that economies would flow from decreased operating costs incurred in performing the line-haul service and through reduction of the cost now incurred for idle time of employees engaged in the terminal service, occasioned by the late arrival of freight at San Francisco; that because of superior road conditions along the Coast Route the service could be performed more expeditiously; that because of more favorable temperatures found along the Coast, particularly during the summer, freight transported over that route would be less subject to damage than that moving through the Valley; that the fog hazard is more serious in the Valley than along the Coast; that interruptions of service due to storms or floods occur more frequently in the Valley than via the Coast; and, that the longer schedules characteristic of the Valley operations subject them to disadvantage in meeting the competition of other carriers, including certain protestants, who are able to provide earlier delivery over the Coast Route.

We adopt, with approval, the discussion of the evidence dealing with these subjects, which appears in the former opinion. In this regard, our conclusions remain unchanged.

On behalf of protestants, it was asserted that Valley Express could not legally be prevented from serving intermediate points were applicants to operate as underlying carriers between the terminals of San Francisco and Los Angeles; that protestants would be damaged by the competition emanating from the service proposed; that applicants had failed to show the inadequacy of the service provided by the existing carriers; and that should public interest require an interchange of equipment at San Luis Obispo, the service should be furnished by existing carriers: viz., by

Valley and Coast Transit Company and Pacific rather than by a new carrier.

In the previous opinion we have dealt with the claimed inability of Valley Express to preclude itself by any stipulation from fulfilling its alleged obligation to serve intermediate points. For the reasons there mentioned, we believe the point is not well taken.

Though the application before us contemplates a certificate authorizing Valley to operate between San Francisco and San Luis Obispo, this must be viewed merely as a means to an end; it should be regarded in substance as one seeking such an operative right solely to permit the performance of a through underlying service between San Francisco and Los Angeles. The San Francisco - San Luis Obispo operation would be but a bridge spanning part of the route over which the through traffic would move.

Since Valley and Pacific now actually provide a through service between San Francisco and Los Angeles as underlying carriers for Valley Express, we are not concerned here with the initiation of such an operation. The continuance of this service, it must be presumed, would be in the public interest. ⁽¹³⁾ The question before us, therefore, resolves itself into the need for transposing that service, in part, from the Valley to the Coast Route.

Essentially, this proceeding involves the improvement of an existing service; it does not contemplate the establishment of a new one. The Coastal operation, as we have shown, would

(13) Re H. Frasher Truck Line, et al, 43 C.R.C. 398, 406.

enable applicants to operate more efficiently and economically.

No traffic would be handled over the alternate route, excepting that of Valley Express moving between the terminals of San Francisco and Los Angeles. It was not shown that any substantial volume of new traffic would be developed, nor does it appear that tonnage would be diverted from any other carrier. Thus the competition now confronting the existing carriers would not be magnified appreciably if at all.

We are not impressed by the contention that applicants, if successful in securing authority to handle the through traffic over the Coast Route, would in due time seek permission to serve the intermediate points; that this, in short, would be but the entering wedge. As in all other matters of this character, the Commission will undertake to safeguard the equities of existing carriers.

Unless some other objection not dealt with thus far is to be upheld, the original order should be affirmed. We shall now consider these contentions.

Sufficiency of the Evidence to Support the Findings

Protestants assert that certain statements appearing in the opinion, denominated as findings, are contrary to and not supported by the evidence. They point to two such statements, viz.: one dealing with the elapsed time consumed in operating trucks between San Francisco and Los Angeles over the Valley and the Coast Routes, respectively, and the other relating to the saving in driver's expense which could be effected by employing the Coast instead of the Valley Route. Both are quoted in the margin. (15) We are convinced there is no merit in this claim.

The evidence clearly shows that the operating time over the Valley Route is influenced substantially by the wage agreements between the carriers and the unions. The basic wage effective over both routes is \$1 an hour for a minimum day of eight hours. Though the trip between Fresno and San Francisco can readily be accomplished in from six and one-half to seven hours, experience has demonstrated that it generally requires eight hours. Between Fresno and Los Angeles, the trip actually consumes from nine to nine and one-half hours on an average, the slower schedule being due to the severe grades encountered on the Ridge Route over the Tehachapi Range. Along the Coast Route each phase of the operation, both north and south of San Luis Obispo,

(15) The statements so assailed are as follows:

"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."

can readily be performed in eight hours. Though applicants propose to complete the through trip in sixteen hours, some of the carriers serving that territory, including protestant California Motor Express, Ltd., require but fourteen hours. This expeditious schedule stands in marked contrast to the Valley schedule of from seventeen to eighteen hours.

The record likewise establishes that, under applicants' proposal, substantial savings could be made in the cost of conducting the line-haul service and in performing the delivery service at San Francisco. The saving in the line-haul operations would average from \$1 to \$1.50 per trip, and since from three to five vehicles daily are employed to handle the through Valley Express traffic the daily saving would be at least \$3. Some evidence was introduced showing that, in addition, economies would be accomplished in fuel consumption and maintenance of equipment. Moreover, it appears that the drivers engaged in the delivery service at San Francisco are required, under union rules, to report for duty not later than 9:00 A.M. Because of the delays now suffered the line-haul trucks frequently do not arrive until 10:30 A.M. or even noon. The expense thus incurred for idle time would be eliminated or sharply curtailed were the alternative route used.

This brings us to the contention that protestants should be permitted to offer further evidence concerning the matters just discussed.

Presentation of Additional Evidence

Protestants assert they should be afforded an opportunity to present additional evidence dealing with the elapsed time consumed over both routes and the savings to be made were applicants permitted to use the Coast Route.

Though protestants have asserted that the evidence to be produced would disclose the situation to be other than as set forth in our opinion, they have failed to disclose, with even reasonable particularity, the character or scope of this evidence, to what extent it would modify the findings, or the witnesses who would be called. Such a showing, we believe, is insufficient to justify reopening the proceeding.

Consistency of Decision with Constitutional Provisions

Protestants allege, generally, that the decision is violative of the due process and the equal protection provisions of both the State and the Federal Constitutions. In the absence of any specification, we assume this involves the contention that the findings and decision are contrary to, and not supported by, the evidence. We have shown to be unfounded the charge levelled against certain statements in the opinion that they were subject to this infirmity. The record, we are convinced, fully supports the finding which follows that public convenience and necessity warrant the establishment of the proposed alternate route.

In view of our conclusions, we are disposed to deny the petition for rehearing. However, our previous decision will be modified so as to grant to applicants a certificate of public convenience and necessity authorizing Valley to operate over the Coast Route between San Francisco and San Luis Obispo in performing its share of the underlying service to be provided by Valley and Pacific for Valley Express between San Francisco and Los Angeles.

Since this is in the nature of an extension of Valley's operative rights, that carrier will be required to pay the statutory filing fee of fifty dollars before the certificate will

become effective. Although this matter might well have formed the subject of a distinct proceeding, the statute does not preclude the granting of a certificate pursuant to a supplemental application such as that now before us.

We, therefore, find the facts to be as follows:

(a) That public convenience and necessity require the establishment by Valley Motor Lines, Inc. and Pacific Freight Lines of an alternative route between San Francisco and East Bay points, 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 Company, an express corporation, between said terminals of San Francisco and East Bay points, and Los Angeles only. (16)

(b) That public convenience and necessity require that, in the performance of the service described in Paragraph (a) of these findings, said Valley Motor Lines, Inc. and Pacific Freight Lines be permitted to interchange equipment at San Luis Obispo.

(c) That public convenience and necessity require the establishment and operation by Valley Motor Lines, Inc., a corporation, of a service as a highway common carrier as defined by section 2-3/4, Public Utilities Act, between San Francisco and East Bay points, and San Luis Obispo, which shall be limited to the transportation of property moving over the lines of said Valley Motor Lines, Inc. and Pacific Freight Lines between San Francisco and East Bay points and Los Angeles, only, as underlying carriers

(16) See Footnote 3, supra. In the order that follows, this will be limited to East Bay points now served by Valley Motor Lines, Inc., viz.: Oakland, Alameda, Berkeley, Emeryville and San Leandro.

for Valley Express Company, an express corporation, as defined by section 2(k), Public Utilities Act.

O R D E R

A public hearing having been had and a decision having been rendered, oral argument having been had upon the petition for rehearing filed herein, the matter having been submitted, and the Commission being now fully advised:

IT IS ORDERED that a certificate of public convenience and necessity be and it hereby is granted to Valley Motor Lines, Inc., a corporation, for the establishment and operation of a service as a highway common carrier as defined by section 2-3/4, Public Utilities Act, between San Francisco, and East Bay points, viz.: Oakland, Alameda, Berkeley, Emeryville and San Leandro, on the one hand, and San Luis Obispo, on the other hand, for the transportation of property moving over the lines of said Valley Motor Lines, Inc. and Pacific Freight Lines, a corporation, between San Francisco and said East Bay points, on the one hand, and Los Angeles, on the other hand, as underlying carriers for Valley Express Company, an express corporation, as defined by section 2(k), Public Utilities Act.

Said certificate is granted subject to the following conditions:

1. That said certificate shall not become effective until said Valley Motor Lines, Inc. shall have paid the filing fee of fifty dollars required by law.

2. That in the performance of said service, no traffic shall be transported other than that moving from or to San Francisco and said East Bay points, or any of them, and delivered to, or received from, Pacific Freight Lines, as a connecting carrier at San Luis Obispo.

3. That in the performance of said service, no traffic shall be transported other than that moving over the lines of Valley Motor Lines, Inc. and Pacific Freight Lines, as underlying carriers for Valley Express Company, an express corporation, between San Francisco and said East Bay points, or any of them, on the one hand, and Los Angeles, on the other hand.

4. That in the performance of said service, no traffic shall be transported which may originate at, or be destined to, any point intermediate to San Francisco and said East Bay points, viz.: Oakland, Alameda, Berkeley, Emeryville and San Leandro, on the one hand, and Los Angeles, on the other hand; and no traffic may be handled between said terminals, or any of them, and any intermediate point, nor between any points intermediate to said terminals.

IT IS FURTHER ORDERED that in the operation of said highway common carrier service pursuant to the foregoing certificate, Valley Motor Lines, Inc. 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, Valley Motor Lines, Inc. shall conduct said highway common carrier operations over and along the following described routes:
 - (a) From San Francisco to Los Angeles, via U. S. Highway No. 101; thence returning via the reverse of said route.
 - (b) From said East Bay points, viz.: Oakland, Alameda, Berkeley, Emeryville and San Leandro, or any of them, to San Francisco via the San Francisco-Oakland Bay Bridge; or, in the alternative from said points, or any of them, to San Jose, via Hayward, Decoto, Niles, Mission San Jose, Warm Springs and Milpitas; or, in the alternative, from said points, or any of them, to San Jose, via San Lorenzo, Mt. Eden, Alvarado, Centerville, Irvington, Warm Springs and Milpitas; and from San Francisco and San Jose, respectively, to Los Angeles, via U. S. Highway No. 101; thence returning via the reverse of said route.

- (3) File, in triplicate, and concurrently make effective within a period of not to exceed sixty (60) days from the effective date of this order, on not less than five (5) days' notice to the Commission and the public, a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders, containing rates, rules and regulations applicable to the transportation of property conforming to the certificate herein granted and satisfactory to the Railroad Commission.
- (4) File, in triplicate, and make effective within a period not to exceed sixty (60) days from the effective date of this order, on not less than five (5) days' notice to the Commission and the public, time schedules covering the service herein authorized in a form satisfactory to the Railroad Commission.

IT IS FURTHER ORDERED:

I. That said Valley Motor Lines, Inc. and Pacific Freight Lines be and they hereby are authorized, in connection only with the transportation of property as underlying carriers for said Valley Express Company, between San Francisco and said East Bay points and Los Angeles over the Coast Route, as 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 transferring such 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-A, such equipment as may be necessary to accomplish such interchange of equipment.

II. That in all other respects said supplemental application be and it hereby is denied.

III. That said petition for rehearing filed herein by Valley and Coast Transit Company, Coast Line Express, California Motor Transport Co., Ltd. and California Motor Express, Ltd. be and it hereby is denied.

IT IS FURTHER ORDERED that this order shall in all respects be substituted for, and stand in lieu of, the order contained in said Decision No. 33407.

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

Dated at San Francisco, California, this 10th day of June, 1941.

Ray L. Riley
Matthew F. Coe
Francis D. Havenor
Richard L. Lachar
 COMMISSIONERS

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RAILROAD COMMISSION
STATE OF CALIFORNIA

PAID

JUN 14 1941

[Signature]
SECRETARY