

ORIGINAL

Decision No. 34343

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Frasher Truck Co., a corporation, and Valley Motor Lines, Inc., a corporation, to exchange operative rights with Pioneer Express Co., a corporation.)	
)	
)	Application No. 24194
)	
)	

WILLARD S. JOHNSON, for Applicants.

E. L. VAN DELLEN and W. J. CUMMINGS, for Northwestern Pacific Railroad Company and Pacific Motor Trucking Company, Interested Parties.

J. F. VIZZARD, for Highway Transport, Inc., Interested Party.

BY THE COMMISSION:

O P I N I O N

In this matter Valley Motor Lines, Inc., Frasher Truck Co. and Pioneer Express Company, ⁽¹⁾ highway common carriers as defined by section 2-3/4, Public Utilities Act, seek approval for the exchange of certain operative rights, authorizing the transportation of commodities generally. Northwestern Pacific Railroad Company, Pacific Motor Trucking Company and Highway Transport, Inc. appeared as interested parties. No one protested the granting of the application.

At the public hearing in this matter, held June 12, 1941,

(1) For brevity, the applicants, all of which are corporations, will be referred to as Valley, Frasher and Pioneer, respectively. Valley Express Co., an affiliate of both Valley and Frasher, will be referred to as Valley Express; and Intercity Transport Lines, Inc., an affiliate of Pioneer, will be designated as Intercity.

before Examiner Austin at San Francisco, evidence was offered on behalf of applicants but the other parties appearing made no showing. The matter was submitted and is now ready for decision.

Applicants assert that the proposed exchange would enable them to concentrate their operations within the areas they severally have undertaken to serve, thus permitting them to effect substantial economies and provide a more efficient service.

Both Valley and Frasher are controlled by the same interests. Closely affiliated with them is Valley Express, an express corporation as defined by section 2(k), Public Utilities Act, which they serve as underlying carriers. The operative right they here seek to transfer to Pioneer is held by Frasher. Permission to convey it to Valley was granted by Decision No. 33749 on Application No. 23816, dated December 21, 1940, to become effective upon approval by the Interstate Commerce Commission of the transfer of the interstate operative rights between the same points. Application for such authority is now pending and awaiting determination.

The operations conducted by Valley as a highway common carrier extend generally from San Francisco, East Bay points and Sacramento, southward through the San Joaquin Valley. Valley Express serves the territory extending generally from San Francisco, Oakland and Sacramento, through the San Joaquin Valley to Los Angeles and the Imperial Valley. Frasher now operates as a highway common carrier between San Francisco and Garberville and certain intermediate points. It is this operative right which Valley and Frasher propose to transfer to Pioneer.

(2) The operative right, north of San Francisco, sought to be transferred from Valley and Frasher to Pioneer is thus described: By Decision No. 29412 on Application No. 20921, dated December 28, 1936, E. Frasher, doing business as Redwood Motor Freight,
(Continued on Page 3)

For many years, Pioneer has operated as a highway common carrier between San Francisco and San Jose and intermediate points. (3)
Certain interests which control it serve the territory between

(2) (Continued)

was authorized to transfer to Frasher Truck Co., a corporation, the certificate of public convenience and necessity previously granted and then held by Frasher, authorizing operation as a highway common carrier "between San Francisco, Petaluma, Santa Rosa and Willits, on the one hand, and Garberville and intermediate points of Longvale, Laytonville, Cummings, Piercy, Hartsook and Benbow, on the other hand, and locally between all points intermediate to Willits and Garberville***".

This operative right was created by Decision No. 25891, dated May 18, 1933 (as amended by Decision No. 26009, dated May 28, 1933, and by Decision No. 27812, dated March 11, 1935), rendered in Application No. 18247. Subsequently, it was transferred to H. Frasher pursuant to Decision No. 28983 on Application No. 20648, dated July 13, 1936.

By Decision No. 27545, dated November 26, 1934 (as amended by Decision No. 32565, dated November 14, 1939), rendered on Application No. 19666, this carrier was authorized to interchange with the Eureka-Garberville Truck Line at Garberville, equipment used to transport the traffic of Intercity, operating as an express corporation over the lines of these carriers.

H. Frasher and Frasher Truck Co., were authorized to transfer this operative right to Valley Motor Lines, Inc. by Decision No. 33749 on Application No. 23816, dated December 21, 1940. That decision provided that the authority therein granted would "become effective contemporaneously with the effective date of the order of the Interstate Commerce Commission authorizing H. Frasher and Frasher Truck Co. to sell their operative rights to Valley Motor Lines, Inc." The Interstate Commerce Commission has not yet rendered its decision in that proceeding.

an
(3) Pioneer is the owner of/operative right authorizing operation as a highway common carrier between San Francisco and San Jose and intermediate points. Included among the latter are South San Francisco, San Bruno, Lomita Park, Millbrae, Easton, Burlingame, San Mateo, Beresford, Belmont, San Carlos, Redwood City, Atherton, Menlo Park, Palo Alto, Mayfield, Mountain View, Sunnyvale and Santa Clara.

By Decision No. 6042 on Application No. 3925, dated December 30, 1918, a certificate was granted to S. B. McLenegan and C. S. McLenegan, authorizing the "***operation of an automobile truck line as a common carrier of express and freight between San Francisco and San Jose and intermediate points:***". This operative right was transferred to Pioneer pursuant to Decision No. 13812 on Application No. 10131, dated July 18, 1924.

Pioneer also owns an operative right, authorizing service as a highway common carrier between Saratoga, Los Gatos, Campbell and San Jose (Decision 30856 on Application No. 21922, dated May 16, 1938). This is not involved in the present proceeding.

(4)
Garberville and Eureka, connecting at Garberville with Frasher. Intercity operates as an express corporation over the line of Pioneer between San Francisco and San Jose and intermediate points, and also over the lines of Frasher and Eureka-Garberville Truck Line, respectively, between San Francisco and Eureka.

In this proceeding Valley and Frasher propose the transfer to Pioneer of the operative right between San Francisco and Garberville; and Pioneer in turn proposes to convey to Valley its operative right between San Francisco and San Jose. Pioneer would retire from the Peninsula (excepting the service between San Jose and Los Gatos, which it would continue to perform) and confine its operations to the Coast territory north of San Francisco. Valley in turn would withdraw from the latter area and enter the Peninsula. Each would benefit from the opportunity thus afforded to concentrate its activities within the general region it had undertaken to serve. Pioneer would serve the territory between San Francisco and Garberville where it would connect with the line of Eureka-Garberville Truck Line, extending to Eureka. Valley, on the other hand, would extend its service to the Peninsula, which is contiguous to the area it now serves. By this exchange, each

(4) Pursuant to Decision No. 31836 on Application No. 22580, dated March 20, 1939, George S. Butler, Cutler S. McLenegan and Harold M. Hays (doing business as Eureka-Garberville Truck Line) acquired an operative right, authorizing operation as a highway common carrier, "***between Eureka and Garberville and intermediate points, subject to the restriction that no shipments may be transported having point of origin and destination between the northern boundary of the City of Eureka and the northern boundary of the Town of Fortuna***".

Intercity operates as an express corporation over the lines of Frasher and Eureka-Garberville Truck Line between San Francisco and Eureka. This carrier, through common ownership and control, is closely affiliated with Pioneer.

carrier could operate more economically and efficiently.

Both Valley and Pioneer, it appears, are financially able to furnish adequate service over the lines they seek respectively to acquire. Each is an experienced operator, well able to conduct an efficient service and to provide all necessary equipment and facilities.

Over each of these operative rights, so the record shows, an uninterrupted service has been conducted. No issue as to abandonment, therefore, has arisen in this case.

No definite value has been assigned to any of the operative rights involved. This element was not touched upon in the application nor in the contract between the parties which accompanied it. At the hearing, applicants were unable to name any specific amount. The record indicates that the corresponding application filed with the Interstate Commerce Commission alleged the value to be not definitely known. Apparently the Peninsula operative right is regarded as somewhat more desirable than the San Francisco-Carberville operation, since Valley and Frasher propose to transfer to Pioneer, in addition to it, a truck and trailer valued at \$8,000.

Under the arrangement contemplated, no additional highway common carrier would enter either territory, Frasher and Valley merely exchanging positions with Pioneer. It is true that the interests controlling Pioneer would continue to furnish, through Intercity, an express service to the Peninsula under a contract with Valley as underlying carrier. But this would not substantially change the existing situation, since Intercity merely would continue, as it has in the past, to serve the Peninsula as an express corporation. The number of carriers now operating in this territory, whether as express corporations or as highway

common carriers, would not be increased.

No evidence was offered in opposition to applicant's proposal. In fact, none of the carriers appearing as interested parties made any showing whatever.

In our judgment the application should be granted. We shall delay the effectiveness of the order, however, until similar authority has been granted by the Interstate Commerce Commission. Although a definite date will be prescribed, this may be postponed, if necessary.

O R D E R

Application having been made as above-entitled, a public hearing having been had, evidence having been offered, the matter having been duly submitted and the Commission now being fully advised:

IT IS ORDERED:

(A) That Valley Motor Lines, Inc., a corporation, and Frasher Truck Co., a corporation, be and they are hereby severally authorized, as their interests may appear, to transfer to Pioneer Express Company, a corporation, that certain operative right as a highway common carrier, as defined by section 2-3/4 of the Public Utilities Act, acquired by Frasher Truck Co. pursuant to Decision No. 21412, dated December 28, 1936, and described as follows:

An operative right, authorizing operation as such highway common carrier between San Francisco, Petaluma, Santa Rosa and Willits, on the one hand, and Garberville and intermediate points of Longvale, Laytonville, Cummings, Piercy, Hartsook and Benbow, on the other hand, and locally between all points intermediate to Willits and Garberville.

(B) That said Valley Motor Lines, Inc. and Frasher Truck Co. be and they are hereby severally authorized, as their interests may appear, to transfer to Pioneer Express Company certain motor vehicle equipment now used for operative purposes, comprising one Kenworth Tractor, Motor No. 14450, Valley Equipment No. 45, and one Freuhauf Semi-trailer, Serial No. C-3550, Valley Equipment No. 18-A.

(C) That Pioneer Express Company be and it is hereby authorized to acquire from said Valley Motor Lines, Inc. and Frasher Truck Co. and thereafter operate thereunder the said operative right described in paragraph (A) hereof and said motor vehicle equipment described in paragraph (B) hereof.

(D) That Pioneer Express Company be and it is hereby authorized to transfer to Valley Motor Lines, Inc. that certain operative right as a highway common carrier as defined by section 2-3/4, Public Utilities Act, created by Decision No. 6042, dated December 30, 1918, and described as follows:

An operative right authorizing operation as such highway common carrier between San Francisco and San Jose and intermediate points.

(E) That said Valley Motor Lines, Inc. be and it is hereby authorized to acquire from Pioneer Express Company and thereafter operate thereunder the operative right described in paragraph (C) hereof.

(F) That in the operation by Valley Motor Lines, Inc. and by Pioneer Express Company, respectively, of highway common carrier service, pursuant to the foregoing authority to transfer said operative rights, said carriers shall severally comply with and observe the following service regulations:

- (1) Applicants shall severally comply with General Order No. 80 by filing in triplicate within sixty (60) days from the effective date of this order, and upon

not less than five day's notice to the Commission, a withdrawal or adoption notice as required by said General Order.

- (2) That applicants shall severally comply with Part IV of General Order No. 93-A within sixty (60) days from the effective date of this order, and upon not less than five day's notice to the Commission and the public.

This order shall become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 24th day of June, 1941.

W. B. ...
W. A. ...
Justin F. ...
Francis L. ...
Arthur ...
Commissioners.