

Decision No. 34473

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of Valley Express Co., a corp., for certificate to operate as an express corporation between San Jose, on the one hand, and the southerly city limits of Hayward and the communities of Niles, Mission San Jose and San Lorenzo, Mt. Eden, Alvarado, Newark, Centerville, Irvington, Santa Rita, Dublin and all intermediate points within two miles of the highways to be used in serving said points, on the other hand; and also locally between all intermediate points situated between San Jose, on the one hand, and San Lorenzo and the southerly city limits of Hayward, via the routes proposed to be used, on the other hand.

Application No.
24196

WILLARD S. JOHNSON, for Applicant and for Frasher Truck Co., Inc., Interested Party.

E. L. VAN BELLEN, JR., for Southern Pacific Company and Pacific Motor Trucking Company, Interested Parties.

BY THE COMMISSION:

O P I N I O N

In the above-entitled proceeding, as amended, Valley Express Co., a corporation, seeks a certificate of public convenience and necessity authorizing the establishment and operation of a service as an express corporation, as defined by Section 2(k) of the Public Utilities Act, between San Jose, Pleasanton, Livermore, Dublin Canyon, Milpitas, Mission San Jose, Sunol, Alvarado, Newark, Decoto and the southerly corporate limits of Hayward and intermediate points as an extension and enlargement of the operative right heretofore created by Decision No. 34006⁽¹⁾ as modified

(1) Decision No. 34006, dated March 11, 1941, granted an express corporation certificate to Valley Express Co. to provide a service "...between Berkeley, Emeryville, Oakland, Alameda, San Leandro, San Lorenzo, Hayward and intermediate points, on the one hand, and San Jose and points intermediate to San Jose and the southerly city limits of Hayward, on the other hand, including Dublin, Santa Rita, Livermore, Pleasanton, Sunol, Mt. Eden, Alvarado, Centerville, Newark, Irvington, Decoto, Niles, Mission San Jose, Warm Springs, Milpitas,..."

by Decision No. 34105. A public hearing thereon was held before Examiner Paul on June 23, 1941, the matter was taken under submission subject to the filing of an amended application, since filed, and the matter is now ready for decision.

The authority granted by Decision No. 34006 is in general between certain East Bay points, on the one hand, and territory south of Hayward, including San Jose, more specifically set forth in the foregoing margin. While that decision authorizes service to or from points in the territory involved herein, it does not authorize any local service between those points. The instant application seeks that authority.

Applicant proposes to use as its underlying carrier the highway common carrier facilities of Frasher Truck Co., a corporation, which now operates between all the points involved. Under applicant's proposal shipments received daily except Sundays and holidays before 11:00 A.M. may be delivered the same day. All shipments received after 11:00 A.M. and as late as 5:00 P.M. will receive next morning delivery, except that in emergencies delivery may be had during the evening hours of the day shipments are received for transportation.

Evidence in support of the application was adduced from the testimony of 18 shipper witnesses. These witnesses represented firms engaged in various businesses, including dealers in automobile tires, chemical spray distribution, building materials and supplies, grocery products, manufacturers of tile and fabricated steel products, and stoves, etc. Inasmuch as there was no opposition to the granting of this application it does not appear to be necessary to enter into a detailed analysis of the testimony of those witnesses. A general review of the evidence adduced shows that in most cases the witnesses are in need of a more expeditious

service as proposed by applicant by means of which shipments received before 11:00 A.M. may be delivered to consignees on the date of receipt. For shipments tendered to applicant after 11:00 A.M. an early next morning delivery is usually sufficient. It was shown that present services available are inadequate to meet that need.

This record shows that there is a public need for the service proposed and that the application should be granted. In granting that authority it appears to be appropriate from an operating viewpoint, to incorporate therein the present right held by the applicant in the East Bay and Livermore-San Jose territory (Decision No. 34006). This will then constitute a new operative right containing the presently held right and the new authority herein applied for. Such will be the order.

O R D E R

A public hearing having been held, the Commission having been duly informed thereon and it appearing that public convenience and necessity so require:

IT IS ORDERED that a certificate of public convenience and necessity is hereby granted to Valley Express Co., a corporation, to provide a service as an express corporation, as defined in Section 2(k) of the Public Utilities Act, between Berkeley, Emeryville, Oakland, Alameda, San Leandro, San Lorenzo, Hayward, Dublin, Santa Rita, Livermore, Pleasanton, Sunol, Mt. Eden, Alvarado, Centerville, Newark, Irvington, Decoto, Niles, Mission San Jose, Warm Springs, Milpitas, San Jose and intermediate points, but not including Santa Clara, Agnew or Alviso; provided that no

local service may be performed between Berkeley, Emeryville, Oakland, Alameda, San Leandro, San Lorenzo, Hayward and intermediate points, in lieu of and not in addition to the certificate heretofore granted by Decision No. 34006, as amended by Decision No. 34105. This grant is subject to the condition, however, that Valley Express Co., its successors or assigns, will never claim before this Commission or any court or other public body a value for the authority hereby granted in excess of the actual cost thereof.

IT IS FURTHER ORDERED that under the foregoing certificate service shall be provided pursuant to the following service regulations, subject to the authority of this Commission to change or modify them at any time by its further order.

1. Applicant shall 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. Applicant shall use the underlying highway common carrier facilities of Frasher Truck Co., a corporation, or Valley Motor Lines, a corporation.
3. Applicant shall operate not less than one scheduled service by which shipments tendered for transportation before 11:00 A.M. of any business day can be delivered on the same day on which they are so tendered, and an additional scheduled service by which shipments tendered for transportation after 11:00 A.M. of any business day can be delivered not later than the following business day.
4. Applicant shall commence service herein authorized within a period of not to exceed sixty (60) days from the effective date hereof and shall comply with the provisions of the Commission's Tariff Circular No. 2 in a form satisfactory to the Commission on not less than five (5) days' notice to the Railroad Commission and the public.

IT IS FURTHER ORDERED that the operative right heretofore granted by Decision No. 34006, as modified by Decision No. 34105, is hereby revoked and annulled.

Dated at Los Angeles, California, this 5th day of August, 1941.

[Signature]
[Signature]
Justus F. Cravens
Francis L. Havenner
[Signature]
COMMISSIONERS