

ORIGINAL

Decision No. 34693

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of RAILWAY )  
 EXPRESS AGENCY, INCORPORATED, OF CALIFORNIA, )  
 for Certificate of Public Convenience and )  
 Necessity for the Transportation of Express )  
 Matter by Motor Truck for RAILWAY EXPRESS ) Application  
 AGENCY, INCORPORATED, OF DELAWARE, also for ) No. 24463  
 the Transportation of Baggage, Milk and Cream )  
 and Allied Products, for the NORTHWESTERN )  
 PACIFIC RAILROAD COMPANY, Between Sausalito )  
 and San Rafael, and Points as Shown Herein, )  
 as an Extension Between San Francisco and )  
 Sausalito. )

EDWARD STERN and E. W. GILL, for Applicant

BY THE COMMISSION:

O P I N I O N

In the above entitled application, Railway Express Agency, Incorporated, of California seeks a certificate of public convenience and necessity authorizing it to establish and operate a highway common carrier service between Sausalito and San Rafael and certain other points within Marin County, viz., Belvedere, Tiburon, Mill Valley, Corte Madera, Larkspur, Kentfield, Ross, San Anselmo and Fairfax, as an extension and enlargement of the operative right heretofore created by the Commission's Decision No. 34219, dated May 20, 1941, on Application No. 24048.

Applicant proposes to confine its operation to the transportation of the traffic of Railway Express Agency, Incorporated, and also to transport certain traffic of Northwestern Pacific Railroad Company. Under its proposal it would provide a two-fold service,

1. Provide service, under a contractual arrangement, as the underlying carrier for Railway Express Agency, Incorporated, an express corporation.
2. Transport milk, cream, cottage cheese, pot cheese, ice cream and baggage in connection with and under joint rates as a connecting carrier of Northwestern Pacific Railroad at San Rafael.

Public hearing was had before Examiner Paul in San Francisco on October 14, 1941 at which time evidence was offered in support of the application. The matter was submitted and it is now ready for decision.

The following common carriers now provide service in the territory involved, namely, Dowd's Express and Storage Company, Kellogg Express and Drayage Company, Pacific Greyhound Lines, Pacific Motor Trucking Company; Sausalito, Mill Valley and San Francisco Express Company, United Parcel Service, Bekins Van Lines, Lyon Van Lines, Paul Ludolph Company and Northwestern Pacific Railroad Company. All of the foregoing named carriers except the last four named advised applicant in writing that they have no objection to granting the application. Copies of their letters are attached to the application. All of the foregoing carriers were notified of the hearing in this matter. No one appeared in opposition to the granting of the authority sought.

In justification for the authority sought, it was shown that Northwestern Pacific Railroad proposes to abandon the operation of passenger trains Nos. 1, 2, 3, and 4 between San Rafael and Sausalito as authorized by the Commission's Decision No. 34571, dated September 10, 1941, on Application No. 24370 and the Railway Express Agency, Incorporated, upon the abandonment thereof, will be deprived of the underlying carrier services of said railroad between those points.

A representative of the Northwestern Pacific Railroad testified that his company desires the establishment of applicant's proposed service to accommodate the movement of approximately three thousand shipments of milk and cream annually moving through San Rafael in railway baggage cars to or from points on Northwestern Pacific Railroad. The amount of baggage handled was not shown.

Fourteen public witnesses appeared and offered testimony in support of the application. Among them were shippers of cosmetics, objects of art and jewelry, bakery goods and other merchandise. In general, it was shown that they have used Railway Express service between San Francisco and points on Northwestern Pacific Railroad and other points herein proposed to be served for a number of years, that the service has always been dependable and satisfactory and that they desire it continued. Representatives of the Chambers of Commerce of San Francisco, San Rafael and Sausalito testified in support of the application. A representative of a number of department stores and retail merchants which are members of the Western Traffic Conference testified that Railway Express Agency for many years has provided an expedited and efficient service for them between the points involved and that a continuance of such service is necessary to meet their needs.

A review of this record is persuasive that the operation of the highway common carrier service proposed between Sausalito and San Rafael and the other points involved is necessary to meet the requirements of those shippers who desire to use the express service of the Railway Express Agency. For many years this service had been provided by Northwestern Pacific between San

Francisco and San Rafael. Upon the abandonment of the rail carrier's ferry service between San Francisco and Sausalito, the applicant herein established a highway common carrier service between those points to handle the traffic of the Express Agency and here seeks authority to establish a similar service between Sausalito and San Rafael. No new carrier will be added to the field between the points involved and no objection was raised to the establishment of the proposed service. After full consideration of the record herein, we are of the opinion and find that public convenience and necessity require the establishment and operation of the highway common carrier service proposed by applicant between Sausalito and San Rafael and the intermediate points hereinbefore named. The application will be granted.

O R D E R

Railway Express Agency, Incorporated, of California having made application as above entitled, public hearing thereon having been had, evidence received, the matter submitted and the Commission now being fully advised therein, and having found that public convenience and necessity so require;

IT IS ORDERED that a certificate of public convenience and necessity is hereby granted to Railway Express Agency, Incorporated, of California to establish and operate a highway common carrier service, as defined in Section 2 3/4 of Public Utilities Act, for the transportation of property between Sausalito and San Rafael and the following points, Belvedere, Tiburon, Mill Valley, Corte Madera, Larkspur, Kentfield, Ross, San Anselmo and Fairfax, said service to be limited:

- (1) For the transportation of shipments of express of Railway Express Agency, Incorporated under a contract as an underlying carrier for said Agency and,
- (2) For the transportation of milk, cream, cottage cheese, pot cheese, ice cream and baggage moving in connection with and under joint rate arrangements with Northwestern Pacific Railroad Company.

The foregoing certificate is granted subject to the provision that Railway Express Agency, Incorporated, of California its successors or assigns may 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 will 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 not to exceed thirty (30) days from effective date hereof.
- (2) Applicant shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing tariffs and time schedules in conformity therewith, in triplicate, within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and the public concurrently with the discontinuance by Northwestern Pacific Railroad Company of the operations of its passenger trains Nos. 1, 2, 3, and 4 between San Rafael and Sausalito as authorized by the Commission's Decision No. 34571.
- (3) Applicant shall provide service over the following routes:  
U. S. Highway No. 101 between Sausalito and San Rafael and all available routes to serve other points authorized.

The effective date of this order shall be ten (10) days from the date hereof.

Dated at Los Angeles, California, this 28<sup>th</sup> day of October, 1941.

[Signature]  
[Signature]  
Justus F. Calender  
Francis D. Haverly  
[Signature]  
Commissioners