

Decision No. 34777

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of NAPA TRANSPORTATION COMPANY, a corporation, and KELLOGG EXPRESS & DRAYING COMPANY, a corporation, for authority to establish through service under joint rates between all points and places served by each, as herein described.

ORIGINAL

Application
No. 24133

REGINALD L VAUGHAN, for applicants

WILLIAM MEINHOLD, for Southern Pacific Company
and Pacific Motor Trucking Company,
Protestants

FITZGERALD, ABBOTT and BEARDSLEY by M. W. Dobrzensky
for Merchants Express Corporation and
Valley-Napa and Calistoga Transport Company,
Protestants

J. H. ANDERSON, for The River Lines, Interested
Party

JACOB MANISS, for W. R. Ames Co., Williams-Wallace
Co., Fraser-Johnson Co., H. C. Little,
H. I. Johnson, Hammer-Bray Co., and Ferro
Enameling Co., Interested parties.

BY THE COMMISSION.

O P I N I O N

This is an amended joint application by Napa Transportation Company and Kellogg Express and Draying Company, hereinafter referred to as Napa Company and Kellogg, respectively, for authority to establish through service under joint rates between all East Bay points now served by Kellogg on the one hand and all points now served by Napa Company, as a highway common carrier, on the other hand.

(1) Applicant, Napa Company, is also a common carrier vessel operator between the same points it serves by truck.

A public hearing of this application was had before Examiner McGettigan at San Francisco on September 23, 1941, and at Napa on October 10, 1941, testimony taken, exhibits filed, the matter duly submitted on the record and it is now ready for decision.

At the initial hearing in San Francisco on September 23rd, Merchants Express Corporation, Vallejo-Napa and Calistoga Transport Company, Southern Pacific Company and Pacific Motor Trucking Company appeared through counsel as protestants to the granting of this application. Appearing as interested parties at this proceeding were The River Lines and Jacob Maniss. None of these parties were present at the second and final public hearing of this application.

During the proceedings, twenty-one shippers and receivers of freight from both East Bay points and Napa appeared and testified in behalf of applicants.

All of these witnesses testified to their respective needs for the through service under joint rates proposed by applicants. Their testimony showed that East Bay shipper witnesses desired to be placed upon a competitive parity with San Francisco shippers and that Napa merchants desired to be free to make their purchases on either side of the bay, as dictated by customer demand or availability of product, without the attendant current delays now imposed upon them due to restrictions present in the operations of applicant, Napa Company, whose services they chose to use.

The restrictions referred to result from the fact that Napa Company operates as a common carrier vessel operator on three days of the week and upon the remaining alternate days, operates as a highway common carrier.

Under these conditions, Napa Company, as a common carrier by vessel, and Kellogg are free to enter into through service arrangements under joint rates simply upon the filing of appropriate tariff. As to the alternate operation, however, such arrangements require specific authority from this Commission. ⁽²⁾ This has resulted in patrons of Napa Company and Kellogg being favored with through service under joint rates only during the three days a week of boat operation, while being obliged to forego this advantage in the remaining three days when similar operations are conducted by truck.

It appears from the record that the so-called Bay area carriers have each built up a distinctive, individual clientele among various shippers which seldom varies to any considerable degree. This is exemplified by testimony of witnesses who, while offering no specific criticism of existing services are committed to the use of one or the other of said services to a degree approaching exclusiveness in some cases. Furthermore, the effect of the National Defense program upon Napa has been reflected in a considerable increase in the movement of freight to that point and the demand for expedited service is constantly on the increase as a result. Practically all of the witnesses testifying stated unequivocally that they needed the particular service here proposed on a daily basis, as well as that of protestants and others, if they were to be enabled to keep pace with and satisfy demands for service made upon them daily.

The Commission has recently recognized the needs of this territory between the San Francisco Bay area on the one hand, and

(2) See Case No. 4589, Decision No. 34547, dated August 26, 1941.

Vallejo to Calistoga on the other hand, by authorizing through service under joint rates on the part of Merchants Express Corporation and Vallejo-Napa and Calistoga Transport Company, and Vallejo Express Co. and Hazlett Warehouse Company respectively.

In connection with this situation, it may be said that applicants, in March of 1940, filed joint rates with this Commission based upon a contention that the vessel operations of Napa Company included operation by truck as well and therefore no authority, other than appropriate tariff filings was required. Vallejo-Napa and Calistoga Transport Company disagreed and filed a formal complaint (Case No. 4589) against applicants which was duly heard, and an order issued directing defendants to cancel the joint rate tariff above referred to and to cease and desist from applying, demanding or collecting the joint rates specified in and provided by said tariff until proper authority was obtained. This order was subsequently stayed by defendants' petition for rehearing.

It appears that the shipping and receiving public, desirous of using the service of applicants, is entitled to the benefits accruing by virtue of through service under joint rates and should not be obliged to dispense with the services of these carriers. Furthermore, it has not been shown on this record that the parties protestant would be adversely affected by the granting of this application.

The record sustains a finding that public convenience and necessity require the establishment of through service under the joint rates proposed by applicants and the application as amended will be granted.

O R D E R

Public hearing having been held in this proceeding, the matter having been duly submitted and the Commission having found as a fact that public convenience and necessity so require:

IT IS ORDERED that Napa Transportation Company and Kellogg Express and Draying Company, as highway common carriers, be and they are hereby authorized to establish and maintain joint rates and through routes for the transportation of property between all points in the East Bay which Kellogg Express and Draying Company is authorized to serve, on the one hand, and points served by Napa Transportation Company on the other hand and that the point of interchange of such property shall be San Francisco.

IT IS FURTHER ORDERED that when exercising the authority herein granted, applicants, Napa Transportation Company and Kellogg Express and Draying Company, shall comply with and observe the following service regulation:

Napa Transportation Company and Kellogg Express and Draying Company, highway common carriers, shall file with the Commission within thirty (30) days from the effective date of this order, and on not less than five (5) days' notice to the Commission and the public, an appropriate tariff naming joint rates and through routes as herein authorized, and which shall be published in a manner satisfactory to the Commission.

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

Dated at San Francisco, California, this 18th day of November, 1941.

[Handwritten signatures of three commissioners]
COMMISSIONERS