

ORIGINAL

Decision No. 35821

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 WILLIAM M. SMITH, MAKIN H. SMITH, JR.,)
 and V. FRED JAKOBSEN, co-partners doing) Application No. 25273
 business under the firm name of TRANSBAY)
 MOTOR EXPRESS CO., for authority to sus-)
 pend operation.)

BY THE COMMISSION:

O P I N I O N

William M. Smith, Makin H. Smith, Jr. and V. Fred Jakobsen, doing business as Transbay Motor Express Co., are engaged in the transportation of property by a motorcycle-truck as a highway common carrier between San Francisco, Oakland, Berkeley, Alameda, Emeryville and Piedmont, under the authority of certificates of public convenience and necessity heretofore granted by the Railroad Commission.

In the above-entitled application the authority of the Commission is sought to suspend that operation until December 31, 1943. Applicants assert that the following conditions exist which are relied upon as constituting good cause for the suspension requested:

The business of applicants since May 2, 1939, has been and is now being carried on under the sole direction and management of V. Fred Jakobsen. Mr. Jakobsen has made application to serve in the Armed Forces of the United States and expects to be assigned to active duty before the close of this year. Mr. Makin H. Smith, Jr. and Mr. William M. Smith are not actively identified with the business, having accepted full-time employment elsewhere in connection with the war effort.

Applicants, in compliance with the rulings of the Office of Defense Transportation (G. O. ODT No. 6, as amended, and G. O. ODT No. 17), effective June 1, 1942, have restricted their service to one schedule a day and, in further compliance with said orders and the resolution of the Railroad Commission (EM-T-10), effective June 1, 1942, have limited that service to one delivery a day. Compliance with said orders makes it impossible for applicants to continue to render the specialized and expedited motorcycle service which afforded the basis for the issuance of a certificate of public convenience and necessity.

Priorities exercised by the United States Government in the purchase of motorcycle equipment and repair parts also make it impossible for applicants to purchase any motorcycle equipment for the duration of the war.

The Office of Price Administration, by ruling dated July 23, 1942, has advised applicants that their motorcycles and sidecars are classed as "passenger vehicles" and that applicants are not eligible to purchase either tires or tubes for use on said equipment. This ruling and priorities exercised by the United States Government on motorcycles and motorcycle parts have also made it necessary for applicants to tear down, rebuild and finally dispose of all of their motorcycles and sidecars. Applicants at present own and operate four motorcycle-trucks, which cannot be repaired should a breakdown occur.

The operation of motorcycle-trucks, such as those employed by applicants, requires skilled, young men, whom applicants are unable to obtain in sufficient numbers or with the regularity required to enable them to maintain this service.

The Office of Defense Transportation, on September 9, 1942, by its order (G. O. ODT No. 21) supplementing existing conservation regulations, has required that all "commercial motor vehicles" as defined in said order, obtain a Certificate of War Necessity by November 15, 1942, and, as motorcycle equipment is excluded from the provisions of said order, it would appear that applicants, after November 15, 1942, will not be able to purchase gasoline, tires or repair parts for its remaining equipment for the duration of the emergency.

After due consideration of applicants' petition we are of the opinion the authority sought is in the public interest and should be granted. The order will so provide. This does not appear to be a matter in which a public hearing is necessary.

O R D E R

IT IS ORDERED that William M. Smith, Makin H. Smith, Jr. and V. Fred Jakobsen, doing business as Transbay Motor Express Co., are hereby authorized to suspend their highway common carrier operations between San Francisco, Oakland, Berkeley, Alameda, Emeryville and Piedmont, as heretofore authorized by Decision No.27975, dated May 20, 1935, Decision No. 29291, dated November 23, 1936, Decision No. 31863, dated March 27, 1939, Decision No. 31972, dated May 2, 1939 and Decision No. 33867, dated February 4, 1941, until and including December 31, 1943, provided that applicants shall supplement their tariffs and time schedules, in triplicate, reflecting this authority, on not less than ten (10) days' notice to the Commission and the public within sixty (60) days from the date hereof.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 6th day of October, 1942.

Justin J. Coenen

W. H. Miller

Francis K. Havens

Richard K. Lach
COMMISSIONERS