

ORIGINAL

Decision No. 36003

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MERCHANTS EXPRESS CORPORATION for a)
certificate of public convenience and)
necessity for the transportation of)
property by motor vehicle to and from)
Moraga, St. Mary's College, Burton,)
Railez, Lafayette, Hidden Valley,)
Happy Valley and intermediate and off-)
route points within one mile of the)
highways traversed, as an extension)
and enlargement of applicant's exist-)
ing rights.)

ORIGINAL

Application No. 25001

FITZGERALD, ABBOTT & BEARDSLEY, by
Milton W. Dobrzensky, for applicant.

BY THE COMMISSION:

O P I N I O N

Merchants Express Corporation is now providing a highway common carrier service in general between San Francisco, South San Francisco, Oakland, Hayward, Berkeley, Richmond, San Rafael, Orinda, Upton, Bryant and Glorietta and intermediate points.

In the above-entitled application that carrier requests a certificate to establish and operate a highway common carrier service between Glorietta, Moraga, St. Mary's College, Burton, Railez, Lafayette, Hidden Valley, Happy Valley and Bryant and intermediate points. It also seeks authority to serve points situated within one mile of the main highways between the foregoing points. It seeks that authority as an extension and enlargement of its present operative rights.

A public hearing was held in this matter before Examiner Paul, at Lafayette, on November 23, 1942, at the conclusion of which the matter was submitted and is now ready for decision.

The foregoing service would be provided at rates not lower than those prescribed by the Commission in its Decision No. 31606, as amended. Regular service would be provided on Monday, Wednesday and Friday of each week, with additional service to meet traffic requirements.

Through an operative witness, it was shown that applicant is now providing service at Orinda, Upton, Bryant and Glorietta on Tuesday and Friday of each week through the use of one type 300 truck (two axles and six wheels) of approximately 8,000 pounds capacity. This truck proceeds from its Oakland terminal fully loaded. Usually about two-thirds of the load is destined to Orinda, Upton, Bryant, Glorietta and other points east of the Low Level Tunnel. Any available space thereon is used for transporting traffic destined to points in North Oakland, west of said tunnel. It is anticipated that sufficient additional traffic destined to points proposed to be served would completely fill the truck in which event traffic destined to points in North Oakland would be transported on other schedules of applicant now serving that territory.

Evidence in support of the application was adduced from merchants and others residing at Lafayette or in the vicinity thereof and the manager of the subsistence facilities at St. Mary's College.

From that evidence it appears that there is now maintained at St. Mary's College a United States Naval Pre-Flight School. All the meals of the students both of the college and of the Pre-Flight School are provided by a party under the provision of a contract. This contractor is also in charge of numerous other facilities of the school, including laundry, etc. It was shown

that in connection with this service this contractor is daily receiving approximately 15 tons of supplies. Some of this traffic is now being and will continue to be delivered by the vendors. For the most part the remainder of the supplies is transported under contract on equipment procured from the Navy. Some traffic moves over the facilities of the Sacramento Northern and is delivered at Moraga, a non-agency station. It was conclusively shown that this service is unsatisfactory and numerous instances of delays were cited.

From the testimony of merchants at Lafayette, it was shown that the only regular common carrier service of merchandise traffic to this area is that now provided by Sacramento Northern Railway. No store-door pick-up and delivery service is available on shipments being delivered by the rail carrier at the Lafayette station at which no agency is maintained. Each of these witnesses stated that he has a need for a store-door delivery service for incoming shipments.

From the record it appears that Happy Valley and Hidden Valley are rapidly developing residential communities which are in need of the proposed service.

There was no opposition to the granting of this application. The only other common carriers serving this area are Sacramento Northern Railway, Railway Express Agency, Incorporated, and Pacific Greyhound Lines. Each of them has advised the Commission, in writing, that it would not oppose the granting of the authority sought.

After full consideration of the evidence in this record, the Commission is of the opinion and so finds that there is a

public need for the establishment of the service proposed. Accordingly the application will be granted.

O R D E R

A public hearing thereon having been held, the matter duly submitted, the Commission fully informed, and it being found that public convenience and necessity so require:

IT IS ORDERED that a certificate of public convenience and necessity is hereby granted to Merchants Express Corporation authorizing the establishment and operation of service as a highway common carrier, as defined by section 2-3/4, Public Utilities Act, between Glorietta, Moraga, St. Mary's College, Burton, Railez, Lafayette, Hidden Valley, Happy Valley, Bryant and intermediate points and off-route points within one (1) mile of the highways between the foregoing points, subject to the following condition:

Merchants Express Corporation, its successors or assigns, may never claim before this Commission or any court or other public body, a value, for any purpose, for the authority herein granted in excess of the actual cost thereof incurred by it.

IT IS FURTHER ORDERED that in the operation of said highway common carrier service pursuant to the foregoing certificate, Merchants Express Corporation shall comply with and observe the following service regulations:

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 comply with the rules of the Commission's General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission 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.
3. Subject to the authority of this Commission to change or modify them at any time by further order, applicant shall conduct said highway common carrier operations over and along the following routes:

Between Glorietta and Lafayette over and along Moraga Road via Moraga, St. Mary's College and Burton. Over Jonas Hill Road between Moraga and Lafayette. Over Circle Creek Road between its junction with Moraga Road near Burton and its junction with California State route 24. Over Happy Valley Road between its junction with State route 24 at Lafayette and its junction with said road about 2 miles westerly of Lafayette. Over Hidden Valley Road between its intersection with State route 24 approximately $1\frac{1}{2}$ miles northeasterly of Bryant and its southern termination in Hidden Valley. Over California State route 24 between Bryant and its intersection with Circle Creek Road.

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

Dated at San Francisco, California, this 8th day of December, 1942.

Justus J. Cullen

H. J. Baker

Francis R. Havens

Richard Pachse

COMMISSIONERS