

Decision No. 30246

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

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
Agency, Incorporated, between Sacramento
and Chico, and intermediate points as
shown herein.

Application No. 25164

EDWARD STERN, for Applicant

WILLARD S. JOHNSON, for Valley Motor Lines,
Inc., Interested Party

R. K. BOOTH, for Pacific Motor Trucking Company,
Interested Party.

W. G. STONE, for Sacramento Chamber of Commerce,
Interested Party.

BY THE COMMISSION:

O P I N I O N

In this proceeding Railway Express Agency, Inc. of
California, a wholly owned subsidiary of Railway Express Agency,
Inc., of Delaware, ⁽¹⁾ seeks a certificate of public convenience and
necessity, under Section 50-3/4, Public Utilities Act, authorizing
operation as a highway common carrier, as defined by Section 2-3/4
of that Act, between Sacramento and Chico and intermediate points,

(1) The carriers mentioned are California and Delaware corpora-
tions, respectively. For brevity, they will be referred to
severally as the California Company (or as the applicant) and
as the Delaware Company. Also, Pacific Motor Trucking Company
will be designated as Pacific Motor.

comprising Roseville, Lincoln, Sheridan, Wheatland, Marysville, Live Oak, Gridley, Biggs, Richvale, Nelson and Durham, and including also Camp Beale, situated eight miles east of Marysville, and the Chico Basic Flying School, located six miles northeast of Chico. This service would be limited to the transportation of express traffic moving in the custody of the Delaware Company under a through bill of lading or express receipt contemplating, in addition to the service to be performed by applicant, a prior or a subsequent connecting movement by rail, water, motor vehicle or aerial transportation facilities. The details of the operation and the compensation to be received by the California Company from the Delaware Company would be governed by a contract between them. The Delaware Company would continue to serve the public directly as an express corporation (as defined by Section 2(k), Public Utilities Act), under the rates and charges published in its filed tariffs.

A public hearing was had before Examiner Austin at Sacramento when the matter was submitted. In support of its proposal applicant called its superintendent, having jurisdiction over the territory involved, its route agent at Sacramento, and certain public witnesses. Valley Motor Lines, Pacific Motor Trucking Company and the Sacramento Chamber of Commerce appeared as interested parties.

Applicant asserts that the existing rail operations between the points involved are inadequate to permit the Delaware Company properly to serve this territory as an overlying carrier of express; that the service conducted by Pacific Motor as an underlying carrier for the Delaware Company, although adequate as to intrastate traffic, is merely temporary; and that the California

Company is best fitted to provide an underlying service responsive to the needs of the public. Any certificate granted, applicant asserts, would be voluntarily surrendered whenever adequate rail service is restored.

For many years the Delaware Company, and its predecessors, have engaged in the transportation of express within this State and generally throughout the United States. Although that company, since 1929 when it entered the field, ordinarily has functioned through the medium of the railroads as underlying carriers, it has also used the facilities of water, air and motor truck carriers. It holds certificates granted by the Interstate Commerce Commission authorizing interstate motor truck operations for the transportation of express as a common carrier; and the California Company has been authorized by this Commission to operate within this State as a highway common carrier, handling express traffic for the Delaware Company.

Throughout the territory involved the service, until recently, was provided by the Delaware Company through the rail lines, as underlying carriers. Due to curtailment of the rail service, necessitated by war conditions, the express traffic has

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- (2) Securities and Acquisition of Control of Railway Express Agency, Inc., 150 I.C.C. 423.
- (3) Railway Express Agency, Inc. - Determination of Status, 21 M.C.C. 161; Railway Express Agency, Inc., Extension of Operations - West Warwick, R.I., 31 M.C.C. 332; Railway Express Agency, Inc., Extension of Operations - Mount Airy, N.C., 31 M.C.C. 343; Railway Express Agency, Inc., Extension of Operations - Kenosha-Twin Lakes, Wis., 31 M.C.C. 587; Railway Express Agency, Inc., Extension of Operations - Sparrows Point, Md., 31 M.C.C. 653; Railway Express Agency, Inc., Extension of Operations - Muskegon-Grand Rapids, Mich., 31 M.C.C. 661; Railway Express Agency, Inc., Extension of Operations - Clarksburg-Buckhannon, Va., 31 M.C.C. 700.

been shifted to Pacific Motor, which now operates as the underlying highway common carrier. Applicant now seeks to replace the latter.

The rail service formerly supplied, so the record discloses, was adequate to meet the requirements of the Delaware Company. On the Southern Pacific lines, express was handled by train 290-291, a mixed train traveling north from Sacramento via Roseville, Marysville and Chico to Tehama, and returning thence to Sacramento via Willows and Davis. This train left Sacramento at 1:20 a.m. and reached Chico at 5:35 a.m., thus providing an early morning delivery. Effective January 19, 1942, this train was withdrawn to permit the equipment to be used for other purposes more essential to the war emergency. Express was also carried on three passenger trains operated by the Sacramento Northern between Sacramento and Chico, leaving Sacramento at 11:00 a.m., 4:45 p.m. and 7:40 p.m., and returning from Chico at 7:40 a.m., 12:15 p.m. and 4:05 p.m., respectively. With the Commission's sanction, Sacramento Northern, effective November 1, 1940, abandoned its rail passenger service between these points. ⁽⁴⁾ At Sacramento, the trains described connected with passenger trains reaching other parts of the State, as well as transcontinental and north Pacific Coast points.

Due to those changes, the passenger train service now available to the Delaware Company is less expeditious than that formerly accorded. Southern Pacific train No. 202, leaving Sacramento at 10:00 a.m. does not permit delivery to be made at Chico

(4) The abandonment of this service was authorized by Decision No. 33009, in Application No. 23175, rendered April 16, 1940 (42 C.R.C. 598).

and intermediate points before the following afternoon; and traffic moving southbound in train No. 7, leaving Chico at 4:03 p.m. does not reach Sacramento before early evening. The Sacramento Northern freight service obviously is not adapted to the needs of the express traffic. Although Western Pacific train No. 12, upon which express is handled, offers an overnight service, it reaches none of the points involved north of Marysville.

To serve this territory, the Delaware Company now employs Pacific Motor as its underlying carrier. The latter is authorized to transport express, baggage, milk and cream, as a highway common carrier, between Davis and Gerbor, via Woodland and Willows and intermediate points, and via Roseville, Marysville and Chico and intermediate points, under a certificate which originally was temporary in character but which later was made permanent. (5) Subsequently, Pacific Motor was authorized to operate a highway common carrier service, auxiliary to the rail operations of Southern Pacific Company, under which it may transport freight, without any limitation as to the nature of the commodities handled, between Marysville and Chico and intermediate rail points. (6) Following the withdrawal of train No. 290-291 by Southern Pacific Company

(5) This certificate, which was granted by Decision No. 33773, rendered December 30, 1940, in Application No. 23892, originally was limited to a period of 180 days. Subsequently, this restriction was removed by Decision No. 34281, rendered June 3, 1941, in that proceeding.

(6) Authority to conduct this service was granted by Decision No. 34647, dated October 20, 1941, in Application No. 24142. Subsequently, this service was extended to Marysville Army Cantonment (Camp Beale) by Decision No. 34805, dated December 2, 1941, (as modified by Decision No. 35148, rendered March 24, 1942) in Application No. 24548. By Decision No. 35165, dated March 24, 1942, in Application No. 24788 the service was extended from Chico to Chico Basic Flying School.

Pacific Motor sought and was granted authority to operate a similar service between Sacramento and Red Bluff and intermediate rail points on both main and branch rail lines. Under these certificates, Pacific Motor may transport express as an underlying carrier for the Delaware Company. However, the former holds no interstate operative rights between the points with which we are here concerned.

Within the territory involved, Pacific Motor employs two sets of vehicles, one to transport general freight, and the other to handle express for the Delaware Company. The freight service is integrated with the Southern Pacific rail freight operations, while the express service is keyed to the passenger trains. The freight and the passenger trains are scheduled to reach interchange points, such as Sacramento, at different times; moreover, the freight schedule reflects only the approximate hour of arrival. For this reason, and because of the heavy volume of the express movement, the same equipment cannot be used to handle both types of traffic. To accommodate the express shipments, Pacific Motor has leased equipment from the Delaware Company. Ordinarily, two trucks are required for this purpose, but more can be supplied if necessary. Through its representative, Pacific Motor made it clear that it would step aside in favor of applicant; from the outset it has regarded the transportation of express, in this territory, as temporary in character.

(7) This service was authorized by Decision No. 35544, dated July 7, 1942, in Application No. 24647.

(8) A representative of Pacific Motor stated that the service performed by the latter in the transportation of express for the Delaware Company, in this territory, was temporary; from the outset Pacific Motor undertook to handle express only until the California Company could obtain operating authority to do so.

To provide this service applicant would use the equipment which it now leases to Pacific Motor. These trucks are equipped with facilities designed especially to meet the requirements of the express traffic. The operation would be conducted daily excepting Sundays and holidays, under a schedule leaving Sacramento at 2:00 a.m., arriving at Chico at 7:00 a.m., leaving the latter point at 8:15 a.m. and returning to Sacramento at 12:20 p.m., thus affording, throughout the territory involved, an early morning delivery. At Sacramento, Roseville, Lincoln, Marysville, Gridley and Chico, collection and delivery service would be supplied, as at present, by local trucks; the line-haul equipment would not be used for this purpose. To facilitate the movement of through traffic, the proposed time schedule has been closely coordinated with those of the passenger trains reaching Sacramento, thus avoiding the accumulation and congestion of express shipments at the Sacramento terminal.

Between the points affected the volume of the express movement is substantial. A recent survey reveals that during a seven-day period, in April, 1942, some 372 intrastate and 582 interstate shipments moved to and from these points. Of these shipments, Marysville and Chico supplied the greater part. It is expected that Camp Beale and the Chico Army Air Base will soon furnish additional traffic.

Generally speaking, so the record shows, the shippers engaged in business at the points affected are satisfied with the service now afforded for the transportation of intrastate traffic. Universally, they expressed a desire for its perpetuation. However, because of the late arrival of interstate shipments, which, as stated, now move by rail, that service has been found far from

satisfactory. This was attributed to the fact that Pacific Motor now possesses no operating authority to handle interstate business between Sacramento and these communities.

The other highway carriers (both passenger and freight) now operating within this field, the record discloses, are not equipped adequately to handle the express business. Normally, this would comprise small packages of light weight, perishables, live animals, valuables, repair parts and similar traffic. Ordinarily, the movement must be expedited. Because of weight limitations, the lack of available space in their buses, and the absence of both pickup and delivery service, neither Pacific Greyhound Lines nor Gibson Lines, it was shown, could supply the service required. Valley Motor Lines, Inc., though willing to enter into an arrangement with the Delaware Company to act as an underlying carrier, does not seek to assume such a relationship. At present, its facilities are taxed to handle the freight traffic offered. Sacramento Freight Lines is not authorized to serve all of the points involved; the operative right of Johnson Truck Lines is limited both as to the points that may be served and the commodities that may be handled; and, of the points involved, only one, viz., Corning, may be served by Sacramento-Corning Freight Lines, and that by a circuitous route.

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- (9) Applicant's superintendent testified that normally express traffic comprehended small packages of light weight; live freight, including dogs, cats, pets, birds, baby chicks and bees, which require constant attention; valuables, including bullion, currency, coin, negotiable securities, deeds, valuable papers, jewelry and furs; corpses; automobile, machinery and electrical repair parts; farm implements; perishables under ice, including fish and oysters, butter, eggs and other food stuffs; films; nursery stock; and drugs and serums. Applicant anticipates that the traffic moving to military bases will include commissary supplies, airplane and automotive equipment and repair parts, baggage and gift shipments.

The rates which the Delaware Company, as the overlying carrier, would impose upon traffic moving within this territory are substantially higher than those that would be charged by the freight carriers. Applicant asserted that the Delaware Company does not intend to compete on a rate parity with any of the other carriers.

The record, we believe, justifies the granting of the authority sought. It reasonably may be presumed that the continuation of the service accorded these communities for many years by the Delaware Company would be in the public interest. Pacific Motor, which now provides the underlying service, is required to furnish it through additional equipment leased from the applicant, for that purpose. To avoid this burden, it desires to withdraw. Applicant, it appears, is well able to supply the service. Its trucks are especially equipped to carry express, its employees are well trained, and its schedules would be coordinated with those of the passenger trains. None of the other carriers in the field has objected to applicant's proposal. In the conduct of this operation, no additional equipment would be employed; on the contrary, applicant would use for this purpose the same trucks which it has leased to Pacific Motor.

An order will be entered accordingly.

O R D E R

Application having been made as above entitled, a public hearing having been had; and the Commission being of the opinion, and hereby finding, that public convenience and necessity so require,

IT IS ORDERED as follows:

(1) That a certificate of public convenience and necessity be and it hereby is granted to Railway Express Agency, Incorporated, of California (a California corporation), authorizing the establishment and operation of a service as a highway common carrier, as defined by Section 2-3/4, Public Utilities Act, between Sacramento and Chico and intermediate points, comprising Roseville, Lincoln, Sheridan, Wheatland, Marysville, Live Oak, Gridley, Biggs, Richvale, Nelson and Durham, and including also Camp Beale, situated eight miles east of Marysville, and Chico Basic Flying School, located six miles northeast of Chico; that said operation shall be limited to the transportation of express as an underlying carrier for Railway Express Agency, Incorporated (a Delaware corporation), in the performance of its service as an express corporation (as defined by Section 2(k), Public Utilities Act) between said points.

Said certificate is granted subject to the following conditions:

- (a) Other than shipments of express that may move locally between any of the points over which applicant is herein authorized to operate, or from or to points which applicant has heretofore been authorized to serve as a highway common carrier, applicant's service shall be limited to the transportation of shipments which receive, in addition to the movement by applicant, a prior or subsequent movement by rail or air, or by both rail and air.
- (b) 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 any purpose, for the certificate herein granted in excess of the actual cost incurred by it in securing said operative right.

(2) That in the operation of said highway common carrier service, applicant 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 provisions of 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:

From Sacramento to Roseville, via U.S. Highways Nos. 99E and 40;

From Roseville to Chico, via U.S. Highway No. 99E:

Diverging from a point on U.S. Highway No. 99E approximately 23 miles north of Marysville, over an unnumbered county highway to Biggs;

Between Marysville and Camp Beale, and between Chico and Chico Basic Flying School over any and all highways open to and available for motor vehicle operation.

The effective date of this order shall be the date hereof

Dated at San Francisco, California, this 30th day

of March, 1943.

Frank P. Whennen
4/11/43
Richard H. Chase
Francis J. Long

COMMISSIONERS