

Decision No. 36975

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Joint Application (a) of)
 THE RAILWAY EXPRESS AGENCY, INCORPORATED for)
 a certificate of public convenience and neces-)
 sity for the transportation of property by)
 motor truck under Section 50-3/4 of the Public)
 Utilities Act of California, between San)
 Bernardino and San Bernardino Air Depot; and)
 (b) for authority under Section 50-F of the)
 Public Utilities Act to serve San Bernardino)
 Air Depot; and (c) for authority to apply the)
 same express rates at San Bernardino Air Depot)
 as apply at San Bernardino.)

ORIGINAL

Application
No. 25876

BY THE COMMISSION:

O P I N I O N

In the above-entitled application, as amended, Railway Express Agency, Incorporated, (a Delaware corporation) requests certificates of public convenience and necessity authorizing the establishment and operation of service as a highway common carrier, as defined in section 2-3/4 of the Public Utilities Act, between San Bernardino and San Bernardino Air Depot, and of service as an express corporation, as defined in section 2(k) of the Public Utilities Act, between the same points. It also seeks authority to publish rates for the transportation of express shipments from and to the Air Depot of the same volume and effect as apply from and to San Bernardino. The highway common carrier service would be confined exclusively to the handling of applicant's express traffic. According to the application the only traffic proposed to be transported would be that originating at or destined to points on applicant's system other than San Bernardino, which has had an immediately prior or would have an immediately subsequent movement by rail or air in addition to applicant's movement by truck. No local traffic would

be transported. The authority is sought for the duration of the present war and six months thereafter.

The express rates now in effect at San Bernardino would be extended to include the San Bernardino Air Depot. It is stated that such rates would be no lower in volume and effect than those heretofore established by the Commission in Case No. 4246 for the same transportation. Service would be rendered daily except Sunday and as requested by the Army authorities at the Air Depot.

As justification for the authority sought it is alleged:

That the United States Government under the War Emergency Program has established an Army Air Depot Base adjacent to rail lines serving San Bernardino, and approximately 3.5 miles from the corporate limits, designated as "San Bernardino Air Depot."

That there is, at the present time, and there will be for the future, a considerable volume of intrastate and interstate interline traffic transported by applicant arriving at and departing from San Bernardino, the preponderance of traffic interstate in character and moving on Government bills of lading.

That it consists of military traffic vital to the war emergency, originating and destined to points reached in applicant's nation-wide service, consisting of miscellaneous articles, including commissary supplies, valuable papers, plans and specifications, repair parts for airplanes and Army automotive equipment, rheostats, scientific instruments, various parts of motors and propellers for airplanes, motors and engines, in addition to baggage for the officers and personnel.

That, with the establishment of service, it will meet with numerous demands made on the Express Agency by officers in charge, service men and civilian personnel for a direct, through and convenient service, in lieu of making delivery of and/or forwarding shipments from San Bernardino.

Applicant represents that the underlying service it proposes as a highway common carrier is of the same character as that conducted "under hundreds of over-the-road certificates granted to it by the Interstate Commerce Commission for the transportation of property in interstate commerce," and that it is therefore qualified,

under section 26 of the Public Utilities Act, to engage in similar
(1)
service in California.

It is apparent from the application that presently there is an urgent public need for an extension of the Agency's facilities to enable it to serve the San Bernardino Air Depot. The duration of such service, however, is not now determinable in that the permanency of the Air Depot is obviously subject to military requirements. In view of this circumstance, it would appear that no time limitation should be placed upon the certificates herein granted. Instead, the matter should be reconsidered upon the presentation by applicant or by any competing carrier of a supplemental petition raising the question of the need for continuance of the service after the war emergency has ended.

Attached to the application are copies of waivers of protest to the granting of said application from Pacific Freight Lines, Pacific Motor Trucking Company, The Atchison Topeka and Santa Fe Railway, Santa Fe Transportation and Southern California Freight Lines.

This appears to be a matter in which a public hearing is not necessary, and the application will be granted.

(1) Section 26 of the Public Utilities Act provides, in part:

"....that foreign corporations engaging in commerce with foreign nations or commerce among the several States of this Union may transact within this State such commerce and intrastate commerce of a like character."

O R D E R

An application having been made as above entitled and it being hereby found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to Railway Express Agency, Incorporated, (a Delaware corporation) authorizing the establishment and operation of service as an express corporation, as defined in section 2(k), Public Utilities Act, between San Bernardino and San Bernardino Air Depot.

(2) That a certificate of public convenience and necessity is hereby granted to Railway Express Agency, Incorporated, (a Delaware corporation) authorizing the establishment and operation of service as a highway common carrier, as defined in section 2-3/4, Public Utilities Act, between San Bernardino and San Bernardino Air Depot limited, however, to the transportation of express traffic of applicant.

Said certificates are granted subject to the following condition:

The service herein authorized shall be limited to the transportation of express traffic moving in the custody of Railway Express Agency, Incorporated, under through bills of lading or express receipts, and said traffic shall receive in addition to the highway common carrier movement by applicant, as herein authorized, an immediately prior or immediately subsequent movement by rail or aerial transportation facilities.

(3) That in the operation of service as an express corporation as herein authorized, Railway Express Agency, Incorporated, (a Delaware corporation) is hereby authorized to apply and make

effective for the transportation of property to and from San Bernardino Air Depot rates which shall be published and maintained at a level identical with those currently in effect and applicable to the transportation of like property to and from San Bernardino.

(4) That in providing service pursuant to the foregoing certificates the following service regulations shall be observed:

- (a) Applicant shall file a written acceptance of the certificates herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
- (b) Applicant shall commence the service herein authorized within a period of not exceeding sixty (60) days from the effective date hereof and shall comply with the provisions of Tariff Circular No. 2, General Order No. 80 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, tariffs and time tables satisfactory to the Commission on not less than five (5) days' notice to the Commission and the public.
- (c) Subject to the authority of this Commission to modify it at any time by further order, the route to be used by applicant between San Bernardino and San Bernardino Air Depot shall be over and along Third Street.

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

Dated at San Francisco, California, this 4th day
of April, 1944.

Richard P. Baker
Justice D. C. Carver
Francis R. Havens
Franklin Clark
James H. Russell
COMMISSIONERS