

Decision No. 37360

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
VALLEY MOTOR LINES, INC., for a )  
certificate of public convenience )  
and necessity to operate as a high- )  
way common carrier between Manteca, )  
California, and Avon, California, )  
and intermediate points, via Tracy, )  
as an extension and enlargement of )  
certain of its existing rights. )

Application No. 26214

BY THE COMMISSION:

**ORIGINAL**

O P I N I O N

In this proceeding, Valley Motor Lines, Inc., a highway common carrier (referred to hereafter as Valley), seeks a certificate of public convenience and necessity, under Section 50-3/4, Public Utilities Act, authorizing the extension of its operations between Avon and Manteca, via Port Chicago, Pittsburg, Antioch, Oakley, Brentwood, Byron, Bethany and Tracy; also serving Banta over an alternate route connecting with U. S. Highway No. 50. Service would be accorded all intermediate points, excepting Oakley. No uncrated household goods, as defined in the current Highway Carriers' and City Carriers' tariffs would be transported. The restrictions imposed by Decision No. 35309 upon traffic moving to and from Antioch, Pittsburg, Port Chicago and Avon, would remain in effect.

Under certificates previously granted, Valley is authorized to conduct a highway common carrier service between Avon and Manteca via Antioch, Walnut Grove, Lodi and Stockton - a circuitous route substantially longer than that over which it now proposes to operate. By Decision No. 33687, rendered December 3, 1940, in

Application No. 23787, Valley was authorized to acquire from Beverly Gibson an operative right between Sacramento and Rio Vista and intermediate points, via Hood, Walnut Grove, Ryde and Isleton. By Decision No. 35309, rendered May 5, 1942, in Application No. 24547, this operation was extended from Rio Vista to Avon and intermediate points including Antioch, Pittsburg and Port Chicago, subject to certain restrictions, set forth in the margin, respecting the commodities transported and the territory served. <sup>(1)</sup> In the meantime, Valley acquired from Overland Transfer Company an operative right between Stockton and Lodi and intermediate points, on the one hand, and Thornton, Walnut Grove, Ryde, Grand Island, Isleton and Rio Vista, on the other hand (Decision No. 33780, dated January 3, 1941, in Application No. 23855). No traffic, however, could be carried between Walnut Grove and Rio Vista and intermediate points; nor did the decision authorize the consolidation of the operative right acquired with Valley's existing operations.

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(1) Decision No. 35309 provided that:

- (a) The service authorized excluded the transportation of uncrated household goods and office and store fixtures, as defined in Item 40(a) of City Carriers' Tariff No. 3, and Highway Carriers' Tariff No. 4, being Appendix A to Decision No. 32325, when uncrated as defined in Item 11(P) thereof.
- (b) No traffic other than that originating at or destined to points "...beyond and south of Stockton or San Francisco..." could be transported.
- (c) Valley could transport no traffic "...moving between Stockton or Sacramento, or at any point intermediate between Stockton or Sacramento and Antioch, excluding Antioch, on the one hand, and Antioch, Pittsburg, Port Chicago and Avon, and all intermediate points between Antioch and Avon, California, on the other hand." Nor could Valley "...transport property moving between points north or east of Sacramento, on the one hand, and points between Rio Vista and Avon, including Avon, on the other hand."

Valley serves both San Joaquin Valley and Sacramento Valley territory. It operates between San Francisco and East Bay, and other points including Livermore, on the one hand, and San Joaquin Valley points including Manteca, on the other hand; between Oakland and San Jose and certain intermediate points; and between Sacramento, Stockton and French Camp, on the one hand and San Joaquin Valley points, on the other hand, (subject to certain restrictions) via both Modesto and Vernalis. In addition, its operations extend north of Sacramento to Chico; and South of San Francisco to San Jose. However, Valley may not now serve either Tracy or Banta.

In effect, Valley seeks an extension of its operations between Manteca and the junction of State Highways Nos. 4 and 24, situated approximately three miles west of Antioch and 2.5 miles east of Oakley; including also the right to serve Banta over an alternate route. To serve the territory between the junction point described and Avon, no additional operative authority is required, since Valley already possesses such an operative right. The

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- (2) Decision No. 23949, dated August 17, 1931, in Application No. 16176; Decision No. 33749, dated December 21, 1940, in Application No. 23816; Decision No. 35252, dated April 14, 1942, in Application No. 24783.
  - (3) Decision No. 33749, supra.
  - (4) Decision No. 27898, dated April 22, 1935, in Application No. 18237.
  - (5) Decision No. 35610, dated July 28, 1942, in Applications Nos. 23687 and 23797.
  - (6) Decision No. 34349, dated June 24, 1941, in Application No. 24194.
  - (7) Under authority granted by the Interstate Commerce Commission, Valley may serve Tracy in its interstate operations.

restrictions affecting Valley's operations between the points last mentioned will not be disturbed.

The Commission has been advised by the carriers now serving this territory, comprising Southern Pacific Company, Pacific Motor Trucking Company, Sacramento Northern Railway, The River Lines and Railway Express Agency, that they have no objection to the granting of the certificate which Valley seeks. However, Sacramento Northern Railway has conditioned its consent upon the imposition of territorial restrictions similar to those prescribed by Decision No. 35309, supra. As stated, those restrictions would still be effective as to the points specified by that decision. Moreover, Sacramento Northern Railway is not affected by the movement of traffic between Manteca and the highway junction mentioned; and consequently, it is not interested in the extension of these restrictions to that territory.

Through the establishment of this operation, applicant alleges, its service would be extended to Brentwood, Byron, Bethany, Banta and Tracy. Of these points the largest is Tracy which applicant now serves in its interstate operations. Intrastate traffic destined to Tracy must now be turned over to Southern Pacific Company for delivery. A public need exists for the establishment of the proposed service and, accordingly, applicant will be authorized to extend its operations to these points. However, in accordance with the application, a restriction will be imposed excluding the right to transport uncrated household goods and office and store fixtures.

Valley Motor Lines, Inc. is hereby placed upon notice that operative rights, as such, do not constitute a class of property

which may be capitalized or used as an element of value in rate-fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited to the number of rights which may be given.

C R D E R

Application having been made as above entitled; and the Commission now 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 Valley Motor Lines, Inc., a 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 the junction of California State Highways Nos. 4 and 24, at a point approximately three miles east of Antioch and 2.5 miles west of Oakley, on the one hand, and Manteca, on the other hand, via Oakley, Brentwood, Byron, Bethany and Tracy, including the right to serve all intermediate points excepting Oakley; and also authorizing operation as such highway common carrier via Banta over the highway connecting with U. S. Highway No. 50 at a point approximately five miles east of Tracy

and again connecting with said highway at a point approximately 3.4 miles west of Tracy.

Such authority is granted subject to the limitation that applicant shall not transport between said points, or any of them, uncrated household goods, office and store fixtures, as defined in Item 40(a) of City Carriers' Tariff No. 3 and Highway Carriers' Tariff No. 4, being Appendix A of Decision No. 32629, when uncrated, as defined in Item 11(P) thereof.

(2) That in providing service pursuant to the certificate herein granted, the following service regulations shall be complied with:

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, appropriate tariffs and time schedules 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 the Commission to change or modify them by further order, applicant shall conduct operations, pursuant to the certificate herein granted, over and along the following routes:
  - (a) From the junction of California State Highways Nos. 4 and 24, approximately three miles east of Antioch, to the junction of California State Highway No. 4 with an unnumbered county road approximately 1.4 miles north of Byron; thence over the last named highway via Byron and Bethany to its junction with U. S. Highway No. 50 at a point approximately 2.5 miles south of Bethany; thence via U. S. Highway No. 50 to its junction with California State Highway No. 120 approximately three miles west of Manteca; thence via California State Highway No. 120 to Manteca.

(b) Via Banta over the route hereinabove described.

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

Dated at San Francisco, California, this 26<sup>th</sup> day of September, 1944.

Justin F. Craven  
Francis P. Havens  
Frank W. ...  
Wesley ...  
COMMISSIONERS