

Decision No. 37848

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THE RAILWAY EXPRESS AGENCY, INCORPO-)
RATED, for certificate of public con-)
venience and necessity for the trans-)
portation of property by motor truck)
under Section 50-3/4 of the Public)
Utilities Act of California, between)
Stockton on the one hand, and Stockton)
Air Base, and certain contiguous area)
on the other hand; and for other)
authorities as shown herein: .)

ORIGINAL

Application No. 26629

BY THE COMMISSION:

O P I N I O N

In the above entitled application Railway Express Agency, Incorporated, (a Delaware corporation) seeks a certificate as an express corporation, as defined in Section 2(k) of the Public Utilities Act, authorizing it to extend its express service from Stockton to suburban areas adjacent thereto and to Stockton Air Base. It also requests a certificate authorizing a highway common carrier service between the same points which would be limited to the transportation of its express traffic having a prior or subsequent movement by rail or aerial transportation. It also seeks authority to publish rates for the transportation of express shipments from and to the points involved of the same volume and effect as those which apply from and to Stockton. According to the application, the highway common carrier service would be conducted auxiliary to and supplemental of applicant's rail and air express service. No local traffic would be transported between Stockton and the other points involved.

The application states that the proposed service to and

from the suburban area adjacent to Stockton would be permanent in character, and that the proposal to serve Stockton Air Base is for the period of the present war emergency only, at the conclusion of which applicant plans to request the Commission to revoke any certificate authorizing service to and from the air base.

In support of the request for authority to establish the proposed services, the applicant asserts that there has been a substantial increase in the population and number of business establishments in the suburban area adjacent to Stockton to which it proposes to extend its pickup and delivery service; that it has been requested by the officers in command and by personnel stationed at the Stockton Air Base to extend its service to such base, which is adjacent to rail lines serving Stockton; and that there is a considerable volume of interstate and intrastate traffic arriving at and departing from Stockton which is consigned to or from the Stockton Air Base.

It is apparent from the application that there is a public need for an extension of applicant's facilities to the points involved. The duration of the service to and from Stockton Air Base, however, is not now determinable in that the permanency of such base 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 following the termination of the war emergency.

Attached to the application are waivers of protest to the granting of the application from the other common carriers serving points in the area involved.

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

Railway Express Agency, Incorporated, (a Delaware corporation) 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.

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 as follows:

(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)

of the Public Utilities Act, between Stockton, on the one hand, and, on the other hand, Stockton Air Base; along East Main Street between its junctions with the easterly corporate limits of the city of Stockton and Burkett Avenue; and within the areas adjacent to Stockton bounded as follows:

Beginning at the junction of Harding Way and California State Route 88, thence northeasterly along State Route 88 to Sargent Avenue, thence along Sargent Avenue, East Fremont Street, Wilson Way, Poplar Street, Wizard Avenue, Roosevelt Street, California State Route 88 to its junction with Harding Way, the point of beginning;

Beginning at the intersection of Alpine Avenue in the easterly corporate limits of the city of Stockton, thence along Alpine Avenue, West Lane, Fulton Street to the corporate limits of Stockton, thence along such corporate limits to the point of beginning at Alpine Avenue.

(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 of the Public Utilities Act, between Stockton, on the one hand, and, on the other hand, Stockton Air Base; along East Main Street between its junctions with the easterly corporate limits of the city of Stockton and Burkett Avenue; and within the areas adjacent to Stockton bounded as follows:

Beginning at the junction of Harding Way and California State Route 88, thence northeasterly along State Route 88 to Sargent Avenue, thence along Sargent Avenue, East Fremont Street, Wilson Way, Poplar Street, Wizard Avenue, Roosevelt Street, California State Route 88 to its junction with Harding Way, the point of beginning;

Beginning at the intersection of Alpine Avenue in the easterly corporate limits of the city of Stockton, thence along Alpine Avenue, West Lane, Fulton Street to the corporate limits of Stockton, thence along such corporate limits to the point of beginning at Alpine Avenue.

(3) That the certificates granted in Paragraphs (1) and (2) hereof are subject to the following limitations:

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.

(4) That in the operation of service as an express corporation, as herein authorized, Railway Express Agency, Incorporated, is hereby authorized to apply and make effective for the transportation of property to and from Stockton Air Base and the suburban area adjacent to Stockton, rates which shall be published and maintained at a level identical with those concurrently in effect and applicable to the transportation of like property to and from Stockton.

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

1. Applicant shall file a written acceptance of the certificates herein granted within a period of not to exceed 30 days from the effective date hereof.
2. Applicant shall commence the service herein authorized within a period of not exceeding 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, appropriate tariffs and time tables on not less than 5 days' notice to the Commission and the public.
3. Subject to the authority of this Commission to change or modify it at any time by further order, the route to be used between Stockton and Stockton Air Base shall be over and along Durham Road. Service to and from the suburban area of Stockton shall be over the most appropriate routes.

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

Dated at San Francisco, California, this 1st day of May, 1945.

Edward Anderson
Justin F. Cooper
Richard Sachs
Francis Egan
Irving L. Luce
COMMISSIONERS