

Decision No. 38757

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of VALLEY)
MOTOR LINES, INC., for certificate to operate)
as a highway common carrier between Avon,)
California, on the one hand, and Oakland,)
California, on the other hand, and inter-)
mediate points as an extension and enlarge-)
ment of certain of its existing rights.)

Application
No. 26459

ORIGINAL

BEROL & HANDLER by MARVIN HANDLER, for applicant,
and Valley Express Co., intervenor.

REGINALD L. VAUGHAN, for Inter-Urban Express
Corporation, interested party.

O P I N I O N

(1) By its application in this proceeding, Valley Motor Lines, Inc., a corporation, seeks a certificate of public convenience and necessity under Section 50-3/4, Public Utilities Act, authorizing the establishment of a highway common carrier service, subject to certain restrictions, between Oakland and Avon and intermediate points, including Piedmont, Albany, El Cerrito, Stege, Richmond, San Pablo, Pinole, Hercules, Rodeo, Oleum, Torney, Selby, Crockett, Port Costa and Martinez. Authority to use certain alternate routes is also sought. The matter was submitted at a public hearing, had before Examiner Austin at San Francisco. No one opposed the granting of the application.

Valley's lines now reach both Oakland and Avon; between these points, however, a circuitous route must be traversed via Hayward, Livermore, Bethany, Byron, Antioch, Pittsburg and Port

(1) For brevity, Valley Motor Lines, Inc., will be hereafter referred to as Valley; Valley Express Company, as Valley Express; and Inter-Urban Express Corporation, as Interurban.

Chicago. Under certificates previously issued applicant's operations extend between Avon and Manteca via Antioch, Oakley, Brentwood, Byron, Bethany and Tracy and also via Isleton, Walnut Grove, Thornton, Lodi, and Stockton; between Sacramento and Walnut Grove; between San Francisco and certain East Bay points, respectively, and Manteca via Hayward, Livermore and Tracy; between Manteca and Tracy, respectively, and various San Joaquin Valley points; between San Francisco and San Jose; between Oakland and San Jose; and between Sacramento and various Sacramento Valley points. This description is intended to outline generally the nature of applicant's operations throughout and adjacent to the general territory involved; it is designed to be neither specific nor comprehensive. The operation contemplated would connect at Oakland, Avon and Dublin with applicant's existing network.

Between San Francisco and certain East Bay points and Martinez (situated some four miles west of Avon), Interurban operates as a highway common carrier serving also as an underlying carrier for Valley Express, an affiliate of Valley. Under the present proposal, Valley would replace Interurban as such underlying carrier.

Material improvements in the service would be accomplished through the establishment of this operation, it was shown. At present freight destined to the Oakland-Avon territory and originating at San Jose or south of Manteca, including Los Angeles and San Joaquin Valley points, must be interchanged between Valley and Interurban at Oakland, and for that reason it is accorded second-day delivery. Were the proposed service authorized, these shipments would receive first-morning delivery, instead.

Substantial economies would flow from the approval of applicant's proposal, so the record discloses. Applicant now operate:

a truck from Manteca to Avon (via Byron, Antioch and Pittsburg), serving that territory. From Avon, this truck travels empty to Oakland (via Martinez and Crockett), where it picks up shipments destined to San Joaquin Valley points, or to Los Angeles. Assertedly, there is sufficient space on this equipment to accommodate the tonnage moving from Manteca and points beyond to the Oakland-Avon territory. Use of this truck for that purpose would permit the elimination of a semi-trailer now employed to transport this traffic from Manteca to Oakland, a distance of some 60 miles. The truck load shipments now transferred at Oakland to Interurban trucks would move through to destination on Valley equipment, thus saving the cost of performing the transfer, estimated at 40 cents a ton. Avoidance of the transfer would tend to minimize damage claims. Freight from San Joaquin Valley points destined to the Avon-Crockett territory would move via Manteca and Martinez, which is 37 miles shorter than the Oakland route. On the whole, applicant estimated, the savings derived from the proposed extension would average approximately \$560 monthly.

Shippers have complained of the present slow service occasioned by the transfer at Oakland, it was shown. Many have voiced a preference for over-night delivery of their freight.

(2) On the average, 278 tons are interchanged monthly between Valley and Interurban at Oakland. This includes both truck load and less-truck load traffic.

(3) Applicant estimated the economies flowing from the proposed operation, as follows:

	<u>Per Month</u>
Saving on cost of vehicle operation, due to elimination of one trip daily, Manteca to Oakland	\$258.75
Saving on interline service	425.00
Total	<u>\$683.75</u>
Less additional costs for driver	115.00
Net Savings	<u>\$568.75</u>

The existing rate structure would remain unchanged. The charges collected from the shipping public would continue to be those published by Valley Express, since Valley would operate only as an underlying carrier.

To facilitate the movement of traffic, certain alternate routes would be used. State Highway No. 24 (the Tunnel Road), from Oakland to its junction with State Highway No. 4, three miles west of Pittsburg, would provide a shorter route to and from Pittsburg and points east. Between Martinez and Dublin, State Highway No. 21 would supply a shorter route for traffic moving to and from San Jose and points south, which now moves via Oakland. The proposed extension of this alternate route from Dublin south to a connection at Old Hearst Ranch with the Livermore-Pleasanton-Sunol highway would permit additional savings in operating mileage. State Highway No. 4, from Hercules to Pittsburg, would afford the Hercules-Pittsburg territory a shorter route to and from points south of Stockton than the northerly route via Crockett, Avon and Port Chicago. State Highway No. 4, diverging from the Tracy highway (via Byron and Bethany) at a point one mile north of Byron, and extending east of Stockton, would shorten the distance to and from points east of Stockton. No intermediate point, situated upon any of these alternate routes, would be served.

To protect the interests of other common carriers serving the territory, applicant voluntarily has proposed the imposition of certain restrictions. These relate both to the commodities handled and the territory served. They are specified in the amended application (paragraph V, subdivisions (a) to (d), inclusive). Each in turn will be considered.

(4) The application was amended at the hearing to permit the extension of the proposed alternate route, as described above.

Subdivision (a) forbids the transportation of uncrated household goods, office and store fixtures. This requires no further comment.

Subdivision (b) provides that no traffic may be carried locally between points on San Francisco Bay or its navigable tributaries north of and including San Francisco and Alameda, on the one hand, and any point between Rio Vista and Oakland, excluding Rio Vista, on the other hand. This restriction stems from those imposed by earlier certificates.⁽⁵⁾ The prohibition against the transportation of traffic moving locally between these points is designed to protect both Interurban and The River Lines. It would not apply to traffic originating at, or destined to points south of San Francisco or Oakland.

Subdivision (c) precludes the transportation of freight between Stockton or Sacramento, or any intermediate point between Stockton or Sacramento and Antioch, (excluding Antioch), on the one hand, and certain points extending from Antioch to Piedmont, inclusive, on the other hand.⁽⁶⁾ Moreover applicant may transport no traffic moving between points north and east of Sacramento, on the one hand, and points between Rio Vista and Piedmont (including Piedmont), on the other hand. This limitation was intended to protect other carriers presently serving the territory, such as The River Lines, Western Pacific Railroad Company and Sacramento Northern Railway. It does not apply to shipments moving to and from Oakland.

(5) See Decision No. 37360, rendered September 26, 1944, in Application No. 26214.

(6) The points specified by this limitation comprise Antioch, Pittsburg, Port Chicago, Avon, Martinez, Port Costa, Crockett, Selby, Tormoy, Oleum, Rodeo, Hercules, Pinole, San Pablo, Richmond, Stege, El Cerrito, Albany and Piedmont.

By subdivision (d), applicant engages never to urge, as the result of the granting of the instant application, the right to render service locally between San Francisco Bay points (including San Francisco, Oakland, Berkeley, Piedmont, Emeryville and Alameda), on the one hand, and Martinez and points intermediate to Martinez, on the other hand. Applicant further obligates itself to restrict its service to the handling of shipments for Valley Express only, in the territory between Piedmont, on the one hand, and Martinez, on the other hand, including both Piedmont and Martinez. This provision was designed to protect Interurban's local operations within this territory.

The approval of applicant's proposal, it was shown, would promote more expeditious service, would facilitate the movement of traffic over applicant's lines, and would result in substantial economies. The common carriers operating locally within the field have been adequately safeguarded by the limitations described above, which will be given effect in the following order. The application, accordingly, will be granted.

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.

(7) Piedmont, though not included in this restriction as set forth in the amended application, was added to this group at the hearing.

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

Application having been made as above entitled; a public hearing having been had; and it having been found 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 service as a highway common carrier, as defined by Section 2-3/4, Public Utilities Act, between Oakland and Avon and intermediate points, including Piedmont, Albany, El Cerrito, Stege, Richmond, San Pablo, Pinole, Hercules, Rodeo, Oleum, Tormey, Selby, Crockett, Port Costa and Martinez.

Such authority is granted subject to the following restrictions:

- (a) Applicant shall not engage in the transportation of uncrated household goods, office and store fixtures, as defined in Item 40(a) of City Carriers Tariff No. 4, being Appendix A of Decision No. 32325, when uncrated as defined in Item 11(p) thereof.
- (b) Applicant shall transport no traffic moving locally between points on San Francisco Bay or its navigable tributaries north of and including San Francisco and Alameda, on the one hand, and any point between Rio Vista and Oakland, excluding Rio Vista, on the other hand.

- (c) Applicant shall transport no property moving between Stockton or Sacramento, or any intermediate point between Stockton or Sacramento and Antioch, excluding Antioch, on the one hand, and Antioch, Pittsburg, Port Chicago, Avon, Martinez, Port Costa, Crockett, Selby, Tormey, Oleum, Rodeo, Hercules, Pinole, San Pablo, Richmond, Stege, El Cerrito, Albany and Piedmont, on the other hand; nor shall applicant transport property moving between points north and east of Sacramento, on the one hand, and points between Rio Vista and Piedmont, including Piedmont, on the other hand.
- (d) Applicant never shall urge, as a result of the granting of this application, the right to render service locally between San Francisco Bay points (including San Francisco, Oakland, Berkeley, Piedmont, Emeryville and Alameda) on the one hand, and Martinez and points intermediate to Martinez, on the other hand. The service to be rendered by applicant hereunder shall be restricted to the handling of shipments for Valley Express Company only, in the territory between Piedmont, on the one hand, and Martinez on the other hand, including both Piedmont and Martinez.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- a. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed 30 days from the effective date hereof.
- b. Applicant shall comply with the provisions of General Order No. 30 and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time schedules within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public.
- c. Subject to the authority of this 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:
1. From Oakland to Crockett via U. S. Highway 40; and from Crockett through Martinez to Avon via unnumbered highway.

Alternate Routes:

1. From Oakland to the junction of State Highways Nos. 4 and 24, approximately three miles west of Pittsburg, via State Highway No. 24.

2. From Martinez via State Highway No. 21 through Dublin to its junction near Old Hearst Ranch with the Livermore-Pleasanton Highway.
3. Between Hercules and Pittsburg via State Highway No. 4.
4. Between the junction of State Highway No. 4 and the Byron-Bethany Highway at a point approximately one mile north of Byron, and Stockton, via State Highway No. 4.

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

Dated at San Francisco California, this 12th day of March, 1946.

David Anderson

James P. Hule

James P. Hule
COMMISSIONERS