

Decision No. 40850

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
EARL P. PATTEN for certificate of)	
public convenience and necessity to)	Application No. 28458
operate Air Express and Air Freight)	
Ground Service between Napa, Vallejo)	
and Napa County Airport.)	

O P I N I O N

By this application, Earl P. Patten seeks authority under Section 50-3/4, Public Utilities Act, to render service as a highway common carrier between Napa, Vallejo and the Napa County Airport, and intermediate points, limited to ground transportation of air freight and air express moving via Southwest Airways Company.

Three round-trip schedules per day are proposed between termini, meeting all flights of the air line at Napa County Airport, located one mile west of State Highway 29 about eight miles north of Vallejo and six miles south of Napa. Applicant will initially operate a 1946 Ford Sedan owned by him. Should the service require more vehicles, it is proposed to let "sub-contracts" to members of the Associated Charter Service, a Vallejo and Napa organization offering owner-operated vehicles under charter. Rates are stated in the application to be based on the principle of "chartering the service of the vehicle and operator to guarantee a minimum of twenty cents (\$.20) per mile covered." The minimum rate on express matter would be \$1.50 per one-way trip, allowing up to 50 pounds, plus one cent per additional pound. The express rate would also apply on air freight-forwarder shipments at Vallejo or Napa.

Applicant has submitted a financial statement (Exhibit E,

attached to the application), which reveals the following information:

<u>Assets</u>		<u>Liabilities</u>	
Cash on hand	\$ 600.00	Depreciation on equipment	\$300.00
Equipment	1400.00	Accounts payable	<u>400.00</u>
Accounts receivable	<u>200.00</u>		\$700.00
	\$1800.00		
	(Correct total \$2200)		

A letter in support of the application has been received from the industrial manager of the Napa Chamber of Commerce. The letter states that there are certain aspects of the application which make the service "not only a public convenience, but a necessity." Under existing ground transportation schedules, it is said, benefits derived from air transportation are nullified by delays.

Merchants Express Corporation, after investigation of the application, has advised the Commission that it does not desire to enter a protest. No one else has objected to the proposal.

Although the application and supporting data show a need for the type of service offered, the indicated method of stating rates is not acceptable. Rule 4 (1) of General Order No. 80 requires that rates be stated in cents, or dollars and cents, per 100 pounds, or other unit of measurement, and forbids the use of complicated or ambiguous methods of stating rates, rules or regulations. Before commencing service under the certificate to be granted in the following order, applicant is directed to submit to the Commission a proposed tariff containing the rates, rules and regulations that will apply to his operation.

Upon full consideration of the application we find that public convenience and necessity require the highway common carrier operation therein proposed. The requested certificate will therefore

be granted. A public hearing is not necessary.

Earl F. Patten is hereby placed on 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

Application therefor having been filed and considered, the Commission being now fully advised and having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it is hereby granted to Earl F. Patten, authorizing the establishment and operation of a service as a highway common carrier, as defined by Section 2-3/4 of the Public Utilities Act, between Napa, Vallejo and the Napa County Airport, and intermediate points, subject however, to the following condition:

The highway common carrier service herein authorized shall be limited to the transportation of property which shall receive, in addition to the highway carrier movement by applicant, an immediately prior or subsequent movement by air facilities.

(2) That in providing service pursuant to the certificate

herein granted, 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 30 days from the effective date hereof.
2. Within 60 days from the effective date hereof and on not less than 5 days' notice to the Commission and the public, applicant shall establish the service herein authorized and 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 tables.
3. 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:

Commencing at Napa, thence south via State Highway No. 29 a distance of 6.5 miles to junction of State Highway No. 29 and an unnamed county road; thence west via said county road a distance of one mile to Napa County Airport; thence back to State Highway No. 29 via said county road; thence south via State Highway No. 29 a distance of 8.5 miles to Vallejo, and return via the same route.

The effective date of this order shall be 20 days from the date hereof.

Dated at Los Angeles, California, this 28th day of October, 1947.

Harold A. Kula
Justice J. Calver

R. J. [Signature]
[Signature]
COMMISSIONERS