

Decision No. 41364

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 W. D. VICKREY and J. T. DICKSON,)
 (VICKREY & DICKSON), to operate trans-)
 portation service between Sunnyvale,)
 Mountain View and San Francisco and)
 intermediate points.)

Application No. 28169

ORIGINAL

J. M. Atkinson, for applicant; E. L. Van Dellen, for Southern Pacific Company and Pacific Motor Trucking Company, protestants; Berel & Handler, by Marvin Handler, for Highway Transport, Inc., protestant; H. M. Hays and William Kessler, for Intercity Transport Lines, protestant; Douglas Brookman, for Merchants Express Corporation, protestant; Vincent Lamarra, for George Cavegnero and Son, protestant; Clair W. MacLeod, for Peninsula Motor Express, protestant.

O P I N I O N

Applicants seek a certificate of public convenience and necessity to establish service as a highway common carrier of general commodities between Los Altos, Mountain View and Sunnyvale, on the one hand, and San Francisco, on the other hand, over Highways U. S. 101 and U. S. 101 (Alternate).⁽¹⁾ Public hearings were held at Mountain View on November 13 and 14, 1947, and at San Francisco on February 5, 1948, when the application was submitted for decision.

Applicants hold radial highway common carrier and city carrier permits, under which they have been conducting a trucking business based at Vickrey's home in Mountain View. Vickrey also has a contract with the Federal Government for transportation of mail between Mountain View, Los Altos and Moffett Field. He was formerly employed as a truck driver by Highway Transport, Inc., in that carrier's peninsula service. The partners own three trucks, one

(1) The application originally contained an offer to serve intermediate points, but was amended at the hearing by eliminating that feature. Following the amendment, the representatives of Peninsula Motor Express withdrew from the hearing.

of which is used to carry mail. They propose to purchase or rent additional equipment if the certificate is granted. Their financial statement, as of December 31, 1946, shows assets, including real estate, of \$14,775, and liabilities of \$4,525, including \$4,000 due on the purchase of real property, which has since been paid. As of November, 1947, the evidence shows, the partnership had \$3,000 in cash.

Vickrey described the proposed plan of operation. Three trucks would be used to make pickups and deliveries and to render line-haul service, in turn leaving the southern termini in the morning around 8:00, 9:00 and noon, and returning to those points the same afternoon at 3:00, 4:00 and after 5:00. On arrival at San Francisco, the drivers would phone Mountain View to see if any requests for pickups had come in after the trucks were on the way to San Francisco. An intercity number would be listed in the San Francisco telephone directory, over which service calls could be made. Vickrey testified that he would attempt to maintain his schedules even if it meant running his trucks empty. No terminal is proposed for San Francisco. Nor was one planned for Mountain View until the possibility was developed, on cross examination, that freight coming in on the last schedule might arrive too late for delivery and thus require overnight storage. Vickrey then stated he might be able to rent terminal space, although he had not as yet made arrangements to do so. Paper work would be handled by Vickrey's wife, while Vickrey himself would look after loss and damage claims. No study had been made of estimated costs or revenues. Vickrey testified, however, that while he hoped to get a certificate and build up the business, he expected to run at a loss for a month or more.

Seven Mountain View business men were called to testify
(2)
in support of the application. It was shown that the principal movement of freight is southbound from San Francisco suppliers to stores in Mountain View, and that the northbound traffic is comparatively light. A number of carriers have participated in these
(3)
movements. The chief complaint voiced by the witnesses concerned slow pickup service at Mountain View. Deliveries were, on the whole, shown to be satisfactory; in fact, in some cases freight has been received the same day as shipped from San Francisco. There were instances, however, of delays in deliveries ranging from next afternoon to as long as several days. It is not clear whether such delays were due to the carriers' lack of promptness in making pickups at San Francisco or were the result of failure on the part of consignors to have shipments ready for transportation when called for. Several witnesses stated that what was needed was an overnight service from San Francisco with next morning deliveries and prompt daily pickups at Mountain View on outbound traffic. Some of the witnesses admitted that they were not familiar with the service of one or another of the existing transportation agencies, but stated they would be inclined to favor a local, responsible trucking concern which could render the type of service desired.

The record is silent on the existence of need for additional service to or from Los Altos, one of the three peninsula points included in applicants' offer. A resolution of the Board of Directors

(2) Businesses represented were: auto parts; tires, tubes and batteries; furniture; radio and appliances; men's clothing; groceries; a local newspaper.

(3) Those mentioned were: Southern Pacific Company and Pacific Motor Trucking Company; Highway Transport, Inc.; Peninsula Delivery Service (specializing in auto parts, etc.); Intercity Transport Lines; Merchants Express Corporation; George Cavagnero & Son. Aside from the carriers named, some witnesses had at times employed radial truckers, and others had occasionally used their own cars to go to San Francisco for goods needed quickly.

of the Sunnyvale Chamber of Commerce, endorsing the application, was filed subsequent to the Mountain View hearings. ⁽⁴⁾ There was no evidence introduced, however, showing a need for service to or from Sunnyvale.

At the concluding hearing at San Francisco representatives of Merchants Express Corporation, Highway Transport, Inc., and Pacific Motor Trucking Company ⁽⁵⁾ described the service by those certificated carriers between the localities here involved. Merchants serves Sunnyvale and Mountain View, but not Los Altos, and has two vans operating out of its San Jose terminal which are devoted to pickup and delivery service in the two communities. Highway has been serving Mountain View and Sunnyvale for many years from its San Jose terminal, and in 1947 was given the right to serve Los Altos, traffic to and from which is handled over its Palo Alto terminal. Pickup and delivery service is rendered at each point, but heavy shipments are made directly on line-haul units. Pickups are requested by shippers directly of drivers, or by calling an intercity telephone number. Highway's representative testified that no service complaints had been received for some time, and that the carrier was not now operating to full capacity. PMT, the trucking subsidiary of Southern Pacific Company, distributes shipments in the three communities which have previously come to San Jose by rail. Deliveries are made in Mountain View about 8:00 a.m. and to the other two points by 11:00 a.m. This carrier's witness stated that very little outbound freight originated in the three towns, and that inbound tonnage was "not too heavy". In addition to its regularly scheduled service, PMT runs an

(4) The manager of the Sunnyvale Chamber of Commerce testified at the hearing on November 13, and offered a petition signed by a number of business men of that community supporting the application. Objection to the introduction of the petition in evidence was sustained on the ground that it constituted hearsay. The resolution, adopted November 24, 1947, was filed on December 2, 1947, and was apparently the result of an offer by the Chamber's representative, made at the hearing, to produce evidence of official action by that body.

(5) These carriers will be referred to hereafter as Merchants, Highway and PMT, respectively, for brevity.

overflow truck through the territory and also, when needed, uses trucks normally operating between San Jose, Los Gatos and Permanente. The local Southern Pacific agents in the three communities are available for calls for service by PMT trucks, it was stated. ⁽⁶⁾ It was shown that overnight service is generally accorded by PMT, Highway and Merchants between San Francisco and the three localities.

The foregoing constitute the essential facts from which it is to be determined whether or not applicants should be granted a certificate. It is at once apparent that the three peninsula points are now receiving a substantial volume of transportation service, considering the amount and direction of traffic involved. Quantity of service, however, is not a substitute for quality, and performance rather than printed schedules should be the criterion by which to appraise the adequacy of existing operations. In territory less plentifully supplied with transportation than the one here under consideration, complaints by shippers of indifference to justifiable needs, or repeated delays chargeable to the carrier's neglect, might very well persuade us to open the door to certification of additional facilities. But when it appears, as it does here, that the existing carriers afford the territory ample service, we should not grant new rights in the absence of substantial proof that the situation cannot otherwise be corrected.

(6) PMT placed in evidence a time schedule (No. 5), effective December 1, 1947, showing a daily (except Saturdays, Sundays and holidays) scheduled service between San Jose and Mountain View, and additional on-call service between San Jose and Sunnyvale in connection with regularly operated schedules.

In conclusion, applicants' showing of public need for a new highway common carrier service is not persuasive. Except for the testimony of the Mountain View witnesses and the resolution of the Board of Directors of the Sunnyvale Chamber of Commerce, there was no evidence that the proposed service was needed at either Los Altos or San Francisco, the remaining two points included in applicants' offer. Moreover, even the testimony of the Mountain View merchants, viewed as a whole, suggests little more than a desire on their part for more efficient service, rather than a real need for new facilities.

Finally, the evidence of applicants' ability to provide a substantial service is not at all reassuring. Though not determinative, the statement - twice repeated by Vickrey during the course of the hearing - that trucks would be run empty if necessary to maintain schedules, and the fact that no cost or revenue estimates had been made, indicate a serious lack of awareness on the part of applicants of the nature and scope of the responsibilities they propose to assume.

We conclude that the issuance of a certificate to applicants is not justified on this record.

O R D E R

A public hearing having been held on the above entitled and numbered application, evidence having been received and considered, the matter having been submitted for decision, the Commission now being fully advised, and basing its order on the findings and conclusions contained in the foregoing opinion,

IT IS ORDERED that the application of W. D. Vickrey and

J. T. Dickson for a certificate 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 Francisco, Mountain View, Sunnyvale and Los Altos, be and it is hereby denied.

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

Dated at San Francisco, California, this 23rd day of March, 1948.

R. T. Dickinson
Justus F. Craven
W. A. Russell
Harold P. Kils
Connetta Patten
COMMISSIONERS