

ORIGINAL

Decision No. 41367

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
VERYL CALLISON, doing business as)
CALLISON TRUCK LINES, for a certifi-)
cate of public convenience and)
necessity to operate as a highway)
common carrier, between Arcata and)
Garberville and intermediate points,)
on the one hand, and San Francisco,)
Colma, Daly City, Richmond, Berkeley,)
Emeryville, Alameda, Oakland, San)
Leandro and South San Francisco, on)
the other hand.)

Application No. 27991

In the Matter of the Application of)
VERYL CALLISON, doing business as)
CALLISON TRUCK LINES, and J. M.)
ATTHOWE, doing business as EAST BAY)
DRAYAGE & WAREHOUSE CO., for au-)
thority to establish joint rates for)
the transportation of property between)
Arcata and Garberville and intermediate)
points, on the one hand, and Emeryville,)
Alameda and Oakland, on the other hand.)

Application No. 27991
1st Supplemental

- BEROL & HANDLER by MARVIN HANDLER, for applicant.
- J. RICHARD TOWNSEND, for Intercity Transport Lines,
Pioneer Express Company, Eureka-Garberville
Truck Lines and A. W. Way, doing business as
Way's Redwood Empire Freight Lines, protestants.
- E. L. VAN DELLEN, for Southern Pacific Company, Pacific
Motor Trucking Company and Northwestern Pacific
Railroad Company, protestants.
- EDWARD STERN, for Railway Express Agency, Incorporated,
protestant.

O P I N I O N

In the above entitled application, as amended, Veryl Callison, doing business as Callison Truck Lines, requests a certificate of public convenience and necessity authorizing highway common carrier operations for the transportation of general commodities except livestock, household goods and articles of unusual value, (1) between Arcata and Garberville and intermediate points, via Eureka, Fortuna and Scotia, on the one hand, and San Francisco,

Daly City, Colma, South San Francisco, Richmond, Berkeley, Emeryville, Oakland, Alameda and San Leandro, on the other hand, and (2) locally, between Arcata and Garberville and intermediate points via Eureka, Fortuna and Scotia.

By the above entitled supplemental application Veryl Callison, doing business as Callison Truck Lines, and J. M. Atthowe, doing business as East Bay Drayage & Warehouse Co., request authority to establish joint rates and through service between Arcata and Garberville and intermediate points, on the one hand, and Oakland, Emeryville and Alameda, on the other hand, with interchange at Berkeley at the terminal maintained by applicant Atthowe. (1)

A public hearing was held before Examiner Paul at San Francisco and Eureka and the matters were submitted on August 29, 1947, subject to the filing of concurrent briefs which have been received. (2)

The following carriers protested the granting of the application: Northwestern Pacific Railroad Company; Pacific Motor Trucking Company; Southern Pacific Company; Railway Express Agency, Incorporated; C. C. and C. S. McLenegan and Harold M. Hays, doing business as Intercity Transport Lines, an express corporation, its underlying carriers, Pioneer Express Company, and C. S. McLenegan, Alan McLenegan and Harold M. Hays, doing business as Eureka-Garber-

(1) J. M. Atthowe was authorized by Decision No. 39223 in Application No. 27633 to acquire a prescriptive highway common carrier operative right for the transportation of property between San Francisco, Oakland, Berkeley, Alameda, Piedmont, Emeryville and Albany.

(2) The hearing was conducted on the following dates: February 24, 25, 26, March 24, 25, 26 and 27, 1947, at San Francisco; May 5, 6, 7, 8 and 9, 1947, at Eureka; and August 27, 28 and 29, 1947, at San Francisco. Opening and reply briefs were due and received not later than December 15 and December 30, 1947, respectively.

ville Truck Lines; and A. W. Way doing business as Way's Redwood
 (3)
 Empire Freight Lines.

Northwestern and Pacific Motor are wholly owned subsidiaries of Southern Pacific Company. Northwestern operates a railroad between Arcata, Eureka and Tiburon. Railway freight traffic is barged between Tiburon and San Francisco. Pickup and delivery service of less car load traffic is performed for Northwestern by Pacific Motor at San Francisco Bay points and Eureka and at rail stations south of Eureka to and including South Fork. Railway Express serves the same points and uses Northwestern and Pacific Greyhound Lines as its underlying carriers between San Francisco and Eureka. Intercity which provides service as an "express corporation" between San Francisco Bay points and Eureka and Arcata uses its affiliated companies, Pioneer Express Company and Eureka-Garberville Truck Lines, highway common carriers, as its underlying carriers between San Francisco and Garberville and between Garberville and Eureka, respectively. North of Eureka, Intercity uses Butler Freight Service as an underlying carrier. A. W. Way conducts a highway common carrier service between Arcata, Eureka, San Francisco, South San Francisco and Oakland and some of the points intermediate to San Francisco and Eureka. Mr. Way's operative right is limited both as to the points which may be served and the commodities which
 (4)
 may be transported. Not all of the commodities which he may trans-

(3) Northwestern Pacific Railroad Company, Pacific Motor Trucking Company, Railway Express Agency, Incorporated, and Intercity Transport Lines will be referred to respectively as Northwestern, Pacific Motor, Railway Express and Intercity.

(4) The commodities which Way may transport as a highway common carrier are: cream, butter, cheese, eggs (except hatching eggs), meat and meat products (edible, except canned goods), edible oils, draught beer, fresh vegetables, fresh fruit and dressed poultry.

port may be transported to or from all points which he may serve. As an example, to Oakland he may transport only fresh meat from Arcata, Eureka, Ferndale, Fernbridge and Scotia.

Applicant Callison, since the early part of 1946, has been conducting a highway common carrier operation between Eureka and Field's Landing, on the one hand, and San Francisco and Oakland, on the other hand, for the transportation of fish in various forms as well as equipment, materials and supplies used in the fishing business. He also transports nursery stock, plants and cut flowers between McKinleyville and Eureka, on the one hand, and San Francisco, Oakland, Santa Rosa and San Jose and other points, on the other hand. For a number of years, according to the record, he has been and now is engaged in the transportation of other commodities for a limited number of shippers between Eureka and San Francisco Bay points under permits issued by the Commission authorizing highway contract carrier service. Applicant Callison uses approximately ten line-haul units and additional pickup equipment to provide this service. The line-haul units consist of either tractors and semi-trailers or combinations of truck and trailer units, two of which are equipped with mechanical refrigeration. The refrigerated equipment is used to transport commodities such as fish, cream, cheese, ice cream, cut flowers, etc., which require refrigeration or the maintenance of a uniform temperature. This equipment consists of 1940 or later models most of it having been purchased new during the later years of the war or thereafter.

Under his proposal applicant Callison would provide an overnight service between San Francisco Bay points, on the one hand, and the Garberville-Eureka-Arcata area, on the other hand. At San Francisco he would maintain a terminal for the accumulation of

shipments which would be picked up with his own equipment or by a local carrier with whom arrangements have been made. Pickup and delivery service for less truck load shipments at Emeryville, Alameda and Oakland would be performed by applicant Atthowe under a joint rate arrangement proposed by him and applicant Callison with interchange at applicant Atthowe's terminal at Berkeley. As a local operator applicant Atthowe would also perform the pickup and delivery service at Berkeley for applicant Callison. Truck loads originating at or destined to these points would be performed by applicant Callison. As to Richmond and San Leandro, Callison would perform pickup and delivery service for all shipments. Truck load shipments originating at or destined to East Bay points would move through without reloading. Less truck load shipments originating at East Bay points would be consolidated into full loads at Callison's San Francisco terminal for movement to destinations. Shipments originating at or destined to the points Garberville and Weott and intermediate points would be picked up or delivered by a local Garberville truck operator. It was not disclosed whether the Garberville operator has the necessary highway common carrier right to operate between these points. According to the record, applicant Callison has made arrangements for the leasing of equipment with drivers from Lyle Willsie to be used for the pickup or delivery of less truck load shipments originating at or destined to the points Loleta, Fortune, Scotia and intermediate points which would be accumulated at or distributed from Willsie's terminal at Fortune. Callison's trucks would deliver or pick up these shipments with his line-haul trucks at Willsie's terminal. Applicant Callison's headquarters are maintained at his Eureka terminal where he has a force of approximately 24 employees. He would provide his own pickup and delivery service at Eureka and Arcata. He maintains teletype service

between Eureka and San Francisco. Under Callison's plan of operation northbound trucks would leave San Francisco at approximately 5 p.m. daily except Sundays and holidays and would arrive at Eureka the following morning to provide early morning deliveries daily except Sundays and holidays at Garberville and points north to and including Eureka and Arcata. Southbound schedules, so it was stated, would leave Eureka beginning at approximately 3 p.m. daily except Saturdays and days preceding holidays and arrive at the San Francisco terminal the following morning to provide early deliveries daily except Sundays and holidays at San Francisco and deliveries in the East Bay cities beginning at about 9 a.m.

Approximately 57 witnesses representing more than 50 firms testified in support of applicant's proposal. Their testimony related to a great variety of commodities which are shipped in substantial tonnage throughout the territory involved. It is unnecessary to give a detailed account of such testimony in order to arrive at a conclusion in this matter. It will suffice to point out that practically all of these witnesses uniformly stated that the present common carrier facilities are insufficient and unsatisfactory to meet their needs. In substance they complained that it is rarely possible to obtain the overnight service needed. As a general rule, so it was asserted, two to five days and in many cases a longer time is required to receive shipments after they are in the hands of the protesting carriers. Some witnesses testified that the fastest service available by the Northwestern between San Francisco and Eureka is three days. Others stated that the only way in which overnight service could be obtained between San Francisco and Eureka was by Pacific Greyhound Lines which provides only depot to depot service at a higher rate than that charged by rail or truck.

carriers. Many witnesses complained of their inability to obtain a pickup of shipments by Intercity or Pacific Motor at the time of the request, pickups being delayed one or more days and sometimes longer. Practically all the witnesses complained with respect to the delays of settlement of claims by Intercity for loss or damage to shipments. Others stated that Intercity on occasions had declined to handle certain types of bulky shipments and shipments of pipe and steel because of its length.

Typical testimony was given by a witness for a general merchandise store at Arcata which receives an average volume of approximately 50 tons weekly from San Francisco and Oakland. He testified to the effect that the service of Intercity was not satisfactory because of the delays in shipments and slow payment of claims by Intercity. This witness produced freight bills from which a summary (Exhibit No. 10) shows that about 74 per cent of 23 shipments transported by Intercity from San Francisco to Arcata during the period from approximately January 3, 1947 to April 9, 1947 required three days or more in transit. Shipments consigned to this witness' Eureka store from San Francisco Bay points via Intercity required from two to nine days on 17 shipments (Exhibit No. 12) approximately 70 per cent of them requiring three days or more and the remainder two days. This same witness testified that the service of Northwestern for less car load shipments from San Francisco and Oakland is also unsatisfactory. Exhibit No. 11 indicates that 25 shipments moving via Northwestern from San Francisco and five from Oakland required on an average from three to seven days; two of them, however, required a longer time. Of these 30 shipments about 80 per cent were in transit five days or more.

The president of the Eureka Chamber of Commerce testified that Northwestern had had more than 100 per cent increase in the volume of its less car load traffic received at Eureka. He further stated in substance that his building materials company picks up its own shipments at the Northwestern depot to avoid long delays of deliveries, that transit time by rail and by Intercity averages from three to ten days from San Francisco Bay points and that he desires and would use the common carrier service proposed by Callison.

Northwestern, Pacific Motor, Southern Pacific Company, and Railway Express entered appearances as protestants and participated in cross examination of applicant's witnesses for a few days at the beginning of the hearing only. These protestants neither offered testimony nor filed briefs in support of their respective protests. The only evidence offered in protest to the application was the testimony of Mr. Harold M. Hays for Intercity and its affiliated companies and that of Mr. A. W. Way.

Mr. Way testified that in his opinion there was no need for a duplication of his service. He stated that he maintains terminals at San Francisco and Eureka and operates a fleet of five diesel units, four of which are mechanically refrigerated. Deliveries are made from the line haul equipment at Garberville and points north thereof intermediate to Eureka. The trucks arrive at Eureka at approximately 7 a.m. His northbound shipments do not exceed 35 a day. He had never received any complaints in regard to his service and expressed the fear that he would be forced out of business in a short time by diversion of traffic if the applicant should be granted a certificate and that there is no other available traffic. A statement in evidence shows that his common carrier revenues for the 26-month period from June 1945 to July 1947

varied from \$3,270 to \$8,745 a month or an average of about \$5,143 a month. However, the monthly averages for 1945, 1946 and 1947 for the months shown was about \$5,243, \$4,026 and \$6,765, respectively.

The evidence submitted by Intercity and its affiliates was based upon the testimony of Harold M. Hays, traffic manager and one of the owners, and upon shipping records and other data to indicate the character of the service rendered and the amount of traffic handled between the points involved. Intercity maintains terminals at San Francisco and Eureka. Its methods of rendering pickup and delivery service were described. It was shown that of 355 shipments handled during April 1947 only about 19 per cent were in transit more than overnight; that during five weeks selected from the months of April, May and June of 1947 about 50 per cent of the shipments received overnight delivery, about 26 per cent received second day delivery and the remainder required three days or more for delivery. Shipments received on Fridays for transportation and not delivered until the following Monday were recorded as next day deliveries. (Exhibits Nos. 33 - 39, incl.) During April 1947 Intercity transported, as an average, approximately 45 tons daily between the points involved, 75 per cent of which was northbound and the remainder southbound. The traffic of Intercity handled between the points involved for the month of April 1947 was shown to be about 1,000 tons and the revenue therefrom approximately \$21,000. In justification of complaints concerning claim settlements the witness stated that in many cases consignees expect payment of claims by Intercity when the liability rests with connecting carriers, and that claims are not properly prepared. He asserted that delays in settling claims during the war were due to lack of personnel, but since then this situation had been

remedied. He further testified that Intercity has taken steps to improve its service, that it and its affiliates have always endeavored to give to the public in the territory from Garberville to Arcata the best service possible under the surrounding circumstances, and that the character of much of the traffic is such that it is impossible to give an overnight service on all shipments. It was the opinion of Mr. Hays that the granting of the application would necessitate the curtailment of Intercity's service to the extent that it could not continue to give to the public as good service as presently provided.

Applicant Callison contends that he has shown a public need for an overnight service for general commodities between the points as proposed, that he is ready, willing and able to provide such service, that protestants are not rendering an adequate overnight service between the points involved and that the growth and development of the Eureka-Garberville area has created a substantial increase in the volume of traffic to and from the San Francisco Bay area.

Protestants contend that applicant Callison has not satisfactorily shown a public need for the establishment of the service proposed, that they are rendering a service commensurate with the public need and that authorization of the proposed service would seriously jeopardize their ability to continue their operations.

The record shows that there has been a substantial increase in population and in the number and growth of industries in the Eureka area during, and following, the later war years. Lumber production, which is the principal industry, has increased substantially. According to the record very little of the lumber

production moves by highway common carrier. Applicant was of the opinion that he would be able to obtain a considerable volume of this traffic. Similarly the fish catch in the Humboldt Bay area has more than doubled since 1944 and is showing continued increase. Merchants in the Eureka area stated that because of serious delays of deliveries to their local customers they are required to make their own deliveries. It was shown that the tonnage of applicant's traffic moving under his highway carrier permits exceeds that transported under his present certificate. That traffic, if applicant were certificated for general commodities, as he requests, necessarily would then be transported under such certificate. It was indicated that a substantial volume of traffic is now moved by highway carriers under permits which, according to applicant's contention, would move by certificated carriers if solicited on a more attractive rate basis. Intercity's service northbound is unavailable to carload shippers because it publishes no rates above the 20,000 pound minimum weight bracket and carload shippers stated they cannot afford to pay the excessive rates which would result from the use of Intercity's service. Applicant proposes to establish certain carload commodity rates, and two scales of carload class rates, one applicable to commodities taking a Class A rating and the other applicable to commodities classified as 5th Class or lower.

A careful and complete consideration of this record leads to the conclusion that there is a definite and positive public need and demand for a dependable and adequate overnight service for general commodities between the points involved. The evidence adduced clearly shows that the service furnished by protestants has not fully met this need. This service has been slow and subject to unjustified delays, it was shown. While complaints in regard

to the service of A. W. Way were relatively inconsequential, it was pointed out that the very limited nature of his common carrier operations precluded its use by general commodity shippers for various reasons.

Applicant has the finances, equipment, terminal facilities and experience to enable him to establish and render the adequate overnight service which this record, without question, shows is needed by the shipping public. The Eureka, Arcata and Garberville Chambers of Commerce presented resolutions adopted by their Boards of Directors favoring the granting of the application.

Upon full consideration of all the evidence of record the Commission finds that public convenience and necessity require the establishment and operation of the service proposed, and the application, therefore, will be granted.

O R D E R

An application having been filed, a public hearing held thereon, the matter submitted, the Commission now being fully informed and it having been found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to Veryl Callison authorizing the establishment and operation of service as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of general commodities, except livestock, uncrated

household goods and articles of unusual value (1) between Arcata and Garberville and intermediate points via Eureka, Fortuna and Scotia, on the one hand, and San Francisco, Daly City, Colma, South San Francisco, Richmond, Berkeley, Emeryville, Oakland, Alameda and San Leandro, on the other hand, and, (2) locally between Arcata and Garberville and intermediate points via Eureka, Fortuna and Scotia.

(2) That Veryl Callison and J. M. Atthowe, highway common carriers, are hereby authorized to establish and maintain joint rates and through routes for the transportation of property moving between the following points served by J. M. Atthowe: Emeryville, Alameda and Oakland, on the one hand, and points served by Veryl Callison between Garberville and Arcata and intermediate points via Eureka, Fortuna and Scotia, on the other hand, and that the point of interchange of property between these carriers shall be at Berkeley.

(3) That in providing service pursuant to the certificate granted in paragraph (1) of this order, applicant Callison shall comply with and observe the following service regulations:

- a. On or not to exceed 30 days after the effective date hereof applicant Callison shall file an acceptance of the certificate granted in paragraph (1) of this order.
- b. Applicant Callison shall establish the highway common carrier service herein authorized not later than 30 days after the effective date hereof and shall comply with the provisions of General Orders Nos. 80 and 93-A by filing in triplicate and concurrently making effective appropriate tariffs and time tables on or after the effective date hereof which may be made effective 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:

Over and along U. S. Highway No. 101 between Arcata, San Francisco and Colma, and U. S. Highway No. 101, By-pass, between San Francisco and South San Francisco and connecting public highways between South San Francisco and Colma. Over the most appropriate and directly connecting public highways between San Francisco, Oakland, Richmond, San Leandro and Alameda.

(4) Applicants Callison and Atthowe shall comply with the provisions of General Order No. 80 by filing appropriate tariffs on or after the effective date hereof which may be made effective on not less than 5 days' notice to the Commission and the public.

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

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

A. T. Dunning
Justus F. Coe
Frank J. Powell
Harold P. Kild
Benjamin P. Potter
 COMMISSIONERS

