

ORIGINALDecision No. 45102

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
 of A. W. WAY, doing business as
 WAY'S REDWOOD EMPIRE FREIGHT LINES,
 for a highway common carrier certificate
 to transport property between San
 Francisco Bay points, Fernbridge, Ferndale
 and points north thereof to and including
 Arcata as an extension of the existing
 rights of applicant.

Application No. 30203

 In the Matter of the Application of
 VERYL CALLISON, an individual doing
 business as CALLISON TRUCK LINES, for a
 certificate to operate as a highway common
 carrier for the transportation of property.

Application No. 30284

Appearances

Douglas Brookman for A. W. Way, applicant in
 Application No. 30203, and protestant in
 Application No. 30284.
Marvin Handler for Callison Truck Lines, applicant
 in Application No. 30284 and protestant in
 Application No. 30203.
William Meinhold and A. W. Gregory for Northwestern
 Pacific Railroad and Pacific Motor Trucking
 Company, protestants in Application No. 30203
 and Application No. 30284 in part.
Harold M. Hays for Intercity Transport Lines,
 Intercity Motor Lines and Eureka-Garberville
 Truck Line, protestants in Applications Nos.
 30203 and 30284.
Mitchell & Henderson by James W. Henderson for
 Humboldt Motor Stages, protestant in Application
 No. 30284 in part.

O P I N I O N

In Application No. 30203, as amended, A. W. Way,
 doing business as Way's Redwood Empire Freight Lines, requests a
 highway common carrier certificate to transport general commodities,
 with certain exceptions, between San Francisco, South San Francisco,

East Bay cities from Richmond on the north to and including Hayward on the south, on the one hand, and, on the other hand, points on Redwood Highway, U. S. Highway No. 101, from Fernbridge and Ferndale north to and including Arcata as an extension and enlargement of his existing highway common carrier operative rights. The excepted commodities are: articles of extraordinary value, livestock, uncrated household goods and petroleum products in bulk in tank trucks or trailers.

(1)
Veryl Callison, doing business as Callison Truck Lines, by Application No. 30284, requests a highway common carrier certificate for the transportation of general commodities excepting livestock, uncrated household goods and articles of unusual value, (a) between Fernbridge and Ferndale and intermediate points via an unnumbered county highway and (b) between Arcata, Blue Lake and Korbek and intermediate points via U. S. Highway 101, U. S. Highway 299 and an unnumbered county highway.

These matters were heard on a consolidated record before Examiner Paul at San Francisco and at Eureka, and the matters were submitted subject to the filing of concurrent opening and reply briefs.
(2)

-
- (1) Hereafter in this opinion, A. W. Way, doing business as Way's Redwood Empire Freight Lines, and Veryl Callison, doing business as Callison Truck Lines, will generally be referred to as applicant Way and applicant Callison.
- (2) Applicants Way and Callison filed opening briefs only. Protestant Humboldt Motor Stages filed opening and reply briefs, and the other parties filed no briefs.

Both applicants are now operating as highway common carriers under certificates issued by this Commission, in general between San Francisco Bay points, on the one hand, and Eureka and points in that area, on the other hand, subject to certain limitations as hereinafter set out. Applicant Way's request was opposed by Northwestern Pacific Railroad Company and Pacific Motor Trucking Company, applicant Callison, and the transportation concerns operated by Harold M. Hays and his associates, consisting of Intercity Transport Lines, an express corporation, Intercity Motor Lines and Eureka-Garberville Truck Lines, highway common carriers. The proposal of applicant Callison to operate between Fernbridge and Ferndale was opposed by the railroad and its trucking affiliate (Pacific Motor Trucking Company), Intercity Transport Lines and applicant Way. The proposal of Callison to operate between Arcata, Blue Lake and Korbek was opposed by Intercity Transport Lines and Humboldt Motor Stages.

Applicant Way holds a highway common carrier operative right for the transportation of specified commodities moving between San Francisco, South San Francisco and Oakland, on the one hand, and certain specified points along the Redwood Highway as far north as Eureka and Arcata, including Fernbridge and Ferndale. He has no highway common carrier operative rights authorizing local service between Eureka and Arcata, nor is such right sought herein. Applicant Way in his testimony pointed out, in substance, that he has been unable to render an adequate highway common carrier service under his present certificates because of their complex and restrictive form; that he has been requested to transport additional commodities between points on the route used; that in some cases

he has served patrons on a contract basis but in many instances he has been compelled to decline requests for service, and that he is constantly confronted with unavoidable confusion concerning the propriety of satisfying many requests. ⁽³⁾ The witness stated that he renders a daily overnight service, except Saturdays, Sundays and holidays, between the points now served, which would be continued under the proposed operation and augmented to the extent necessary to serve adequately the shippers who would use the proposed service.

Operating officials described the automotive and terminal facilities of applicant Way maintained and used at San Francisco and Eureka. He has a fleet of 26 units of automotive equipment used in conducting his present operations. At Eureka seven units are maintained for pickup and delivery service. Three units are used at San Francisco for similar service. From one to three additional trucking units are leased occasionally for line-haul service. Other trucking units would be acquired as needed. Rates

-
- (3) As an example of the service which may be conducted by applicant Way under the certificates granted by Decision No. 39081 and Decision No. 41400, in Application No. 27412, he may transport meat extracts, animal or poultry feed of certain types, specified frozen foods, milk in different forms, milk powder, mincemeat, peanut butter, sandwich spreads, sausage, and other named food products. Soap, soap powders, washing compounds, animal tallow, fertilizer and other items may also be handled. These commodities may be transported from wholesale meat packing houses at South San Francisco and San Francisco to Garberville and points north thereof to and including Arcata, Eureka, Ferndale, Fernbridge and Scotia. In the reverse direction he may handle cream, butter, cheese, eggs (except hatching), fresh vegetables and fresh fruits. Some of these as well as some other commodities may be transported from or to various limited combinations of those or other points along the Redwood Highway.

for most commodities would be established at a volume not lower than the minimum rates established by the Commission. However, it is proposed to establish carload rates on some commodities between certain named points, which would be at the level of the carload rail rates (Exhibit 19). Documentary evidence was introduced showing tonnages moved by applicant Way, under asserted contractual arrangements, between the San Francisco Bay area and Eureka territory. From this evidence it was developed that approximately 4,500²²²,000 pounds of freight were transported north during the months of January, February, and March, 1949. The southbound movement for the same period between the same areas was shown to be approximately 4,120,000 pounds (Exhibits 8 to 13 inclusive). This traffic consisted of a wide range of commodities and the shipments varied in weight from a few pounds to full truck loads of 30,000 pounds or more. One operating official stated that a great amount of additional traffic is not expected if the certificate sought should be granted although active solicitation would then be established.

In support of his application, applicant Way called twelve public witnesses consisting of city officials, officers of chambers of commerce and representatives of industries and businesses. Some of these witnesses gave testimony with respect to the population and industrial expansion of the Eureka area. Others testified as to their use of this applicant's permitted service and of their desire for its expansion so that applicant Way will be able to handle any shipment offered. One witness pointed out that the population of Eureka had increased by more than 2,000 since the end of 1947. This would indicate a population of more than 24,000 in the City of

Eureka, with an estimated 8,000 to 10,000 persons residing in the surrounding contiguous communities. Further testimony indicated that many new industries had been established in Eureka and a new industrial development, known as Henderson's Center, had been established just south of that city. Another witness stated that customers of a gas and electric utility had increased from 15,000 in 1943 to about 30,000 in 1949. This utility has recently expanded its facilities at Eureka to provide for the increased service demands. Applications for new service are being received at the rate of between 275 and 300 a month which has required a substantial increase in the force of that utility. This utility uses applicant Way's service for practically all of its traffic from the San Francisco Bay area, the bulk of the traffic moving under a contractual arrangement. This shipper desires a continuation of the service. The manager of a large dairy products company which maintains plants at Loleta, Arcata and Ferndale stated that his company receives shipments from San Francisco and East Bay points via applicant Way's line, ranging from small packages to truckload lots, and also makes shipments in the reverse direction. This witness supported applicant Way's request so that he would be authorized to transport anything which this shipper may offer.

The manager of the merchandise office of a large mercantile establishment which maintains its main store at Arcata and has used applicant Way's service for a number of years, has found it to be very satisfactory and desires such service continued. This witness stated that he has also used the facilities of other carriers which have been satisfactory.

The manager of a paint and glass firm at Eureka testified that applicant Way's service is used for shipments between San Francisco territory and Eureka territory. Such service has been on a contractual basis. The witness desires continuation of Way's service. Similar testimony was given by the buyer for a general hardware store at Eureka. Neither of these witnesses voiced a complaint with respect to services of other carriers which they have used.

We shall now turn to a consideration of the showings made by those protesting the proposal of applicant Way.

Applicant Callison testified with respect to the terminals he maintains at San Francisco, Berkeley, Garberville, and Eureka, and described the equipment used and the service given between San Francisco Bay points and points in the Eureka area. Overnight service is provided by him daily except Sundays and holidays. While this witness expressed the opinion that his operations would be detrimentally affected if applicant Way's request should be granted, no evidence was produced to support such opinion. Applicant Way and applicant Callison stipulated that the latter could call twenty witnesses at San Francisco and twenty witnesses at Eureka who, if called, would testify that they make shipments and receive shipments over Callison Freight Lines, the service of which is adequate and efficient, and that they need no additional service between San Francisco, Eureka and Arcata.

It was also stipulated between applicant Way and protestants Northwestern Pacific and Pacific Motor Trucking Company, that said protestants could call ten witnesses at Eureka with respect to the area covered by applicant Way and that these

witnesses, if called, would testify that they are using the Northwestern Pacific-Pacific Motor Trucking service; that such service is satisfactory to them and that they do not require the service of another carrier.

Harold M. Hays testified with respect to the service performed by Intercity Transport Lines, Intercity Motor Lines and Eureka-Garberville Truck Lines. Intercity Motor Lines is a highway common carrier with limited operative authority between San Francisco and Garberville and certain intermediate points. It also operates locally between Eureka and Arcata. Eureka-Garberville Truck Lines, which is a partnership composed of S. W. McLenegan and Alan McLenegan and witness Hays operates between Eureka and Garberville and intermediate points. Intercity Transport Lines, which is an express corporation provides service, among other points, between San Francisco Bay points and points in the Eureka area and some points intermediate thereto. As its underlying carriers it uses the facilities of Intercity Motor Lines and Eureka-Garberville Truck Line. Witness Hays described the facilities and service of the carriers which he represented. They provide service, generally overnight, between San Francisco Bay points and Eureka territory, daily except Saturdays, Sundays and holidays. Local service is also performed between Eureka and Garberville and intermediate points, among others. Witness Hays testified at length as to the circumstances which impel him to believe that the granting of the certificate sought by applicant Way would impair the ability of those carriers represented by the witness to maintain the standard of service they now provide.

Documentary evidence produced by him shows that his trucking companies suffered a decline in traffic between the San Francisco Bay area and the Eureka area. A comparison of the traffic for the months of August, September and October, 1948 with those months of 1949 shows that approximately 35 per cent less tonnage was transported during the latter period. There was a comparable decline in the average number and weight of shipments. However, the witness was unable to state what portion of that loss of traffic was attributable to the establishment of certificated operations by Callison Freight Lines.

We shall now consider the showing made by applicant Callison in support of his request for authority to extend operations to Ferndale and to Korbelt and the showing made by protestants, Northwestern Pacific-Pacific Motor Trucking, Humboldt Motor Stage and Intercity Transport Lines.

Applicant Callison conducts a highway common carrier service between San Francisco Bay points, on the one hand, and points Garberville to Arcata inclusive, and points intermediate thereto, on the other hand, and locally between Garberville and Arcata and intermediate points. He serves other points which are not directly related to the areas involved in these proceedings. He proposes to extend this operation from Fernbridge, a point he now serves, to Ferndale, and from Arcata to Korbelt and points intermediate. The points Fernbridge to Ferndale are presently served by applicant Way and Pacific Motor Trucking Company. Intercity Transport Lines has joint rates with applicant Way applicable to Ferndale. The points Arcata to Korbelt are presently served by Humboldt Motor Stages, directly, and under a joint rate arrangement with Intercity Transport Lines, an express corporation.

Applicant Callison in support of the authority sought by him called six public witnesses at Eureka and seven at San Francisco. A dealer in heavy hardware at Ferndale expressed a need for applicant Callison's proposed service which could make deliveries from the store of the witness to points as far as Garberville which are now picked up by customers or delivered by the witness. The frequency or amount of such movements was not indicated. Shipments received from the San Francisco area now move to Eureka via applicant Callison's service thence to Ferndale via the service of applicant Way at a combination of local rates of these carriers. This, the witness would like to avoid in order to reduce the transportation charges. One other merchant at Ferndale gave similar testimony. A hardware merchant at Arcata makes retail sales for delivery to shops and mills in the Blue Lake-Korbel area, some of which he delivers in emergency cases. He had used Humboldt Motor Stages service to those points but after dissatisfaction over handling of one shipment ceased using that service over one year previously. He desires the proposed service of applicant Callison which he stated would provide him an overnight service from the San Francisco Bay area to Arcata and to the Blue Lake-Korbel area. A merchant at Blue Lake prefers the service proposed as the time in transit would be one day less. He receives a relatively small amount of freight from the San Francisco area. He hauls his local shipments which he purchases at Eureka. A service station operator at Blue Lake receives supplies from the San Francisco Bay area and would like a faster service for his relatively few emergency shipments. Satisfactory service is received from the present carriers for other shipments.

Of the seven public witnesses who testified at San Francisco, five make shipments from San Francisco, one from Oakland and one from Berkeley, to Ferndale, Blue Lake, and Korbey, among other points on applicant Callison's line which are not involved here. Applicant Callison's service has been used for these shipments with interchange at Eureka. Some of these witnesses testified that the through service which would be accorded under applicant Callison's proposal was more desirable as it would eliminate excessive handling and reduce losses from various causes. Some of these witnesses testified that shipments moving by present carriers are assessed combination rates of two carriers which in some cases adversely affects the ability of the shippers to compete. They had no complaint respecting the present service to Ferndale and only incidental complaints with respect to some service to Blue Lake and Korbey.

In protest to applicant Callison's proposal to serve Ferndale, Northwestern Pacific Railroad and Pacific Motor Trucking Company called but one witness who described the operations and service of the combined facilities of those carriers for less-carload traffic between San Francisco and Oakland, on the one hand, and Fernbridge and Ferndale, on the other hand. Most of this traffic received next day delivery from San Francisco and second day delivery from Oakland. Exhibit No. 25 is a performance record for the months of April and May of less-carload shipments moving from San Francisco to Ferndale, which shows that of the 174 shipments handled between those points during the month of April, 73 per cent were overnight, 13 per cent were second day delivery, 2 per cent were third day delivery, 6 per cent were fourth day delivery, and the remainder were sixth and seventh day deliveries. Shipments between those

points during the month of May received somewhat comparable handling except overnight delivery was accorded 82 per cent of them. During this month of May, the Pacific Motor Trucking Company agent at Fernbridge received 45 less carload shipments from applicant Callison originated by him and in transit from San Francisco to Ferndale. They were transported from Fernbridge to Ferndale by Pacific Motor Trucking Company and 87 per cent were delivered the day of origination and the remainder the next day.

Applicant Callison and protestants Northwestern Pacific Railroad and Pacific Motor Trucking Company stipulated that the latter could call ten witnesses at Eureka who, if called, would testify that they use protestants services to and from Ferndale which meets their requirements and that they need no additional service.

Humboldt Motor Stages' protest was directed to the proposal of applicant Callison to extend service from Arcata to Blue Lake and Korbøl, which points are served by Humboldt. The general manager of Humboldt testified that between Eureka and Korbøl, via Arcata, it operates passenger stage equipment with a rear compartment capable of holding one ton or more of merchandise. Bus service is twice daily six days a week between these points. The witnesses pointed out that this passenger equipment with the rear compartment is sufficient to handle most of the traffic moving between these points but that protestant has adequate trucks to handle heavier shipments, if required. Evidence produced shows that from May to and including December 1949, the total freight and passenger revenues from operations of Humboldt Motor Stages between Eureka, Blue Lake and Korbøl varied from about 16 cents per mile to

approximately 27 cents per mile. These revenues show a gradual increase from the low figure in the month of May to the maximum amount in November. The systemwide costs of operation were stated to be between 26 cents and 27 cents per mile. The witness took the position that loss of any part of the express and freight business to or from these points would render the entire passenger and freight operation to and from Blue Lake and Korbelt infeasible. Most of the traffic handled by this protestant into Blue Lake and Korbelt originates in the San Francisco Bay area and is handled by protestant under a joint rate arrangement with Intercity Transport Lines.

Protestant Humboldt called seven public witnesses who testified with respect to their need for a continuance of service by Humboldt between Eureka, Blue Lakes and Korbelt. They were unanimous in their expressions that the passenger and freight service accorded by this protestant is essential and adequate to meet their needs. Intercity Transport Lines offers a through service between San Francisco Bay area points and Ferndale under a joint rate arrangement with applicant Way with interchange at Eureka (Cal. P.U.C. Local and Joint Tariff No. 4 of Intercity Transport Lines, bearing effective date June 20, 1949). It also offers a through service between San Francisco Bay area points and Blue Lake and Korbelt under a joint rate arrangement with Humboldt Motor Stages.

Applicant Way contends that he has the experience and ability, financial resources and facilities to provide the highway common carrier service which he proposes. He also contends that public convenience and necessity require such service between San Francisco, South San Francisco and East Bay points, on the one hand, and, on the other hand, the points proposed in the Eureka

area. In our judgment, these contentions are well supported by the evidence of record.

On the other hand, protestants contend that they are well qualified and equipped to provide all the service needed by the public between these points. That they have not done so is fully shown by the record which indicates that applicant Way is transporting in excess of 34,000,000 pounds of non-certificated traffic annually.

The protesting highway carriers also contend that certification of applicant Way would seriously jeopardize their financial stability. The record does not show that their financial stability has been adversely affected by the operations of applicant Way. Evidence submitted by these protestants shows that shippers served by them have been satisfactorily served. We do not believe that any substantial part of their traffic will be diverted by certification of applicant Way, whose operations under a certificate would differ in no material respect from that now conducted. The record shows that the traffic available to said applicant is sufficient to support his proposed operation under certification without jeopardizing the financial stability of protesting carriers.

Applicant Callison likewise contends that he has the experience, ability, financial resources and facilities to provide the extended services he proposes. Those contentions are well supported by evidence of record. He further contends that he has shown that public convenience and necessity require granting his application. We are not in accord with this contention.

While applicant Callison produced evidence to show some public need for his proposed extensions, it is our conclusion that such showing was insufficient on this record to justify a finding

that public convenience and necessity require those extensions. With respect to the proposed extension to Ferndale, protestants showed that they are providing a satisfactory service to that point for the shippers whom they serve. The volume of the traffic is indicated to be insubstantial.

The situation with respect to applicant Callison's proposed extension from Arcata to Korbey, a distance of about nine miles, is similar to the Ferndale proposal. As pointed out, Blue Lake and Korbey are now well served by protestants Humboldt Motor Stages and Intercity Transport. Here again we find on the record that the traffic is relatively small in volume. Humboldt Motor Stages showed that its total revenues from passenger and freight traffic has reached a point where it barely meets the cost of this operation. A review of the testimony of all the witnesses appertaining to this area can only lead to the conclusion that shippers to or from those points are receiving a service which reasonably meets their needs.

After full consideration of all the evidence of record in these proceedings, and of the briefs and arguments presented therein, the Commission finds that public convenience and necessity require the establishment and operation of the service proposed by A. W. Way. The Commission further finds that Veryl Callison has not shown that public convenience and necessity require the establishment and operation of the service proposed by him. An appropriate order will be issued granting the application of A. W. Way and denying the application of Veryl Callison.

O R D E R

Applications as above entitled having been filed, a public hearing having been held thereon, the matters having been submitted, the Commission being fully advised in the premises and based upon the evidence and findings expressed in the opinion hereof,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is hereby granted to A. W. Way 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 between San Francisco, South San Francisco, East Bay cities from Richmond, on the north, to and including Hayward on the south, on the one hand, and, on the other hand, points on the Redwood Highway (U. S. Highway 101) from Fernbridge to and including Arcata and from Fernbridge to and including Ferndale by diversion, as an extension and enlargement of his existing highway common carrier operative rights.

Said certificate is granted subject to the following conditions:

A. W. Way shall not engage in the transportation of: Uncrated household goods and other commodities for which the Commission has prescribed minimum rates in Appendix "A", Decision No. 32325, City Carriers' Tariff No. 3, Highway Carriers' Tariff No. 4;

Livestock uncrated;

Petroleum products, in bulk, or tank trucks;

Articles of extraordinary value.

(2) That in providing the service pursuant to the certificate herein granted, there shall be compliance with 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 after the effective date hereof.
- (b) Applicant shall, within 90 days after the effective date of this order and upon not less than 5 days' notice to the Commission and to the public, establish the service herein authorized and comply with the provisions of General Orders Nos. 80 and 93-A (Part IV), by filing, in triplicate, and concurrently making effective, appropriate tariffs and time schedules.
- (c) Subject to the authority of this Commission to change or modify them by further order, applicant shall conduct operations over the following routes:

Between San Francisco and Oakland, over the San Francisco-Oakland Bay bridge, U. S. Highway 40 and Richmond-San Rafael ferry between East Bay cities and U.S. Highway 101. Between San Francisco and South San Francisco over U.S. Highway 101 Bypass. Between San Francisco and Arcata over U.S. Highway 101.

(3) That Application No. 30284 of Veryl Callison is hereby denied.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 5th day of December, 1950.

R. Z. [Signature]
Justice J. [Signature]
[Signature]
Harold [Signature]
[Signature]
 COMMISSIONERS