

ORIGINAL

Decision No. 45232

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
MERCHANTS EXPRESS CORPORATION, a)
corporation, for an extension of its)
highway common carrier certificate to) Application No. 31450
include service to Sonoma, points in the)
vicinity of Sonoma and all points)
Shellville north to Santa Rosa,)
-----)

In the Matter of the Application of)
JAMES P. NIELSEN, dba NIELSEN FREIGHT)
LINES, for a certificate to operate as a) Application No. 31462
highway common carrier for the trans-)
portation of property.)
-----)

Douglas Brookman and A. R. Grinstead, for
Merchants Express Corporation as applicant
in Application No. 31450 and as interested
party in Application No. 31462.
Marvin Handler for James P. Nielsen as appli-
cant in Application No. 31462 and as inter-
ested party in Application No. 31450.
William Meinhold for Southern Pacific Company,
Pacific Motor Trucking Company, Northwestern
Pacific Railroad Company, and Petaluma and
Santa Rosa Railroad Company, protestants as
to both applications.

O P I N I O N

In Application No. 31450, Merchants Express Corporation, hereinafter referred to as Merchants, seeks a certificate of public convenience and necessity authorizing it to transport all commodities except uncrated household goods, serving all points in the Sonoma Valley between Shellville and Santa Rosa as an extension of its highway common carrier services.

In Application No. 31462, James P. Nielsen, doing business as Nielsen Freight Lines, hereinafter referred to as Nielsen, requests a certificate of public convenience and necessity to serve Sonoma and Kenwood and all intermediate points as an extension of his present highway common carrier services. General commodities, except uncrated

household goods, livestock, and liquid commodities in bulk in tank trucks, would be transported.

The two applications were consolidated for public hearings held in Sonoma before Examiner Gillard, and submitted after oral arguments held on December 22, 1950.

Merchants now serves in the San Francisco Bay Area generally, and north to Healdsburg and Calistoga, and east and north to points between and including Stockton and Redding. It proposes to serve the Sonoma Valley with both a same day and overnight service from San Francisco, the East Bay, Petaluma and Santa Rosa. Morning pickups will be delivered the same afternoon directly to Sonoma, while afternoon pickups will be routed through the Santa Rosa terminal and delivered the following morning, commencing at 9 A. M. in Sonoma. The service will be offered at the existing minimum rates established by this Commission. It proposes to establish an agency in Sonoma similar to the one existing in Petaluma. The record indicates that Merchants has adequate terminal facilities, financial resources and equipment to render the proposed service.

Nielsen presently operates between San Francisco and Petaluma and Santa Rosa, and has terminal facilities in the three cities mentioned. He proposes to render a same day and overnight service from San Francisco, Petaluma and Santa Rosa to Sonoma. Traffic would be routed through the Petaluma terminal in both cases. Morning pickups would be delivered in Sonoma commencing at 2:15 P.M., while afternoon pickups would be delivered the following morning commencing at 8:10 A.M. An agency station would be established in Sonoma. The rates for the proposed service would be at the level of those set forth in Highway Carrier's Tariff No. 2. Exhibits in evidence indicate that Nielsen possesses the facilities, equipment and financial

resources to render the proposed service.

The City of Sonoma has a population of 2003 according to the 1950 census, and it is estimated that there are in excess of 14,000 people in the township. The Sonoma Valley is now served by rail and by Pacific Motor Trucking Company, several permitted carriers, and Pacific Greyhound Lines on smaller shipments.

Twenty-one public witnesses were produced on behalf of both applicants who testified to the need for improved transportation services. Many of them use permitted carriers for their regular weekly or monthly deliveries in preference to Pacific Motor Trucking Company. Most of them use either their own equipment or Pacific Greyhound Lines for merchandise needed in a hurry, although almost none had requested Pacific Motor Trucking to institute a same day service. Almost all criticized the service rendered by Pacific Motor Trucking in one way or another: the service is slow and not dependable; portions of shipments are lost or delayed; damage is frequent and payment of claims slow; joint rates are not available. All of them would patronize either or both of the applicants if certificated herein. A few would discontinue Pacific Motor Trucking entirely, while others would continue to use it for some of their shipments. Most of them would also discontinue use of their own trucks and private carriers.

Twenty-five public witnesses testified on behalf of Pacific Motor Trucking. All stated that the services of this carrier were entirely satisfactory and that no others were required to meet their needs. Most of these witnesses stated they received overnight service from Pacific Motor Trucking; a few stated they did not always get overnight service, but stated it was not needed. Others stated a same day service was not needed.

It is impossible to reconcile the views expressed by witnesses called on behalf of applicants with those called by protestants. It must be concluded that as to some of its customers, Pacific Motor Trucking Company is rendering a satisfactory service, while as to others, it is not. In the latter group are substantial numbers of persons who depend on motor transportation in their business. They have stated that both as a matter of need and of convenience, these new services are required. Their testimony cannot be eliminated by the fact that other shippers, whose problems and demands may or may not be the same, are satisfied with the services of Pacific Motor Trucking Company.

Operative testimony presented by Pacific Motor Trucking shows overnight service to Sonoma from San Francisco, the East Bay, Stockton and Sacramento. From San Francisco, freight is barged to Petaluma. From the other three points line haul equipment goes directly to Petaluma. Two trucks are dispatched daily from Petaluma to make deliveries in Sonoma Valley. One goes to the smaller communities, while the other goes directly to Sonoma and starts deliveries at 8 A. M. The second truck was added six months ago because of increased business.

Also introduced into evidence by Pacific Motor Trucking was a tabulation of 416 shipments delivered by it to Sonoma from San Francisco and Oakland during January, February and March, 1950, to the witnesses who testified on behalf of applicants. The exhibit discloses that 385 of these shipments were delivered next day, 8 on the second day, 5 on the third day, 4 on the fourth day and one each on the sixth and seventh days. For the remaining 12 shipments, the date of delivery could not be ascertained.

In contrast to this exhibit, one of applicants' witnesses produced all of his Pacific Motor Trucking freight bills with points of origin in Napa, Santa Rosa, San Francisco and Oakland, for the period October 3, 1949 to August 15, 1950. A total of 480 shipments were transported, and of these, 162 were delivered in from two to five days after Pacific Motor Trucking received the shipment.

Protestants introduced no evidence that the issuance of these certificates would affect or jeopardize their financial stability, and no such conclusion can be reached from the record herein.

Counsel for protestants contends that under the principles stated in earlier decisions of this Commission, the applicants herein have not shown that public convenience and necessity require the issuance of the requested certificates. He further contends that the announced policy of this Commission as to liberality in granting certificates (Decision No. 42648, dated March 22, 1949, reported in 48 Cal. P.U.C. at page 587) refers only to permitted carriers who are operating in the territory for which certificates are sought, and does not apply to certificated carriers, like applicants herein, who seek certificates in areas not served by them. In support of this latter contention he cites *In re Peninsula Motor Express*, 49 Cal.P.U.C. 807, wherein, at page 820, permitted carriers were referred to in discussing this question.

Decision No. 42648 applies to both certificated and permitted carriers, and no decision of this Commission since then has circumscribed the principles therein stated. That decision was cited as applicable to the *Peninsula Motor Express* case, and the language referred to at page 820 thereof must be read in light of the fact that *Peninsula Motor Express* was a certificated carrier seeking an extension of its rights to territory not then being served by it under permits or otherwise.

Most of the witnesses testifying for applicants were from Sonoma. There were a few from El Verano and Boyes Springs, and one from Glen Ellen. No other communities were represented by these witnesses. The record supports the contention of applicants that there is a need for additional common carrier service to Sonoma, El Verano and Boyes Springs, and as to these points we find that public convenience and necessity require the establishment and operation of the services proposed by Merchants and Nielsen. In all other respects the applications will be denied.

O R D E R

Public hearings having been held in the above-entitled proceedings, and the Commission based upon the evidence received, 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 Merchants Express Corporation, a corporation, authorizing the establishment and operation of a 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 uncrated household goods, between all points covered by its present certificates, on the one hand, and Sonoma, El Verano and Boyes Springs on the other hand.

(2) That a certificate of public convenience and necessity be and it is hereby granted to James P. Nielsen, an individual doing business as Nielsen Freight Lines, authorizing the establishment and operation of a 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 uncrated household goods, uncrated

livestock, and liquid commodities in bulk in tank trucks, between all points covered by his present certificate, on the one hand, and Sonoma, El Verano and Boyes Springs on the other hand.

(3) That, in providing service pursuant to the certificates herein granted, there shall be compliance with the following service regulations:

- (a) Within thirty (30) days after the effective date hereof, applicants shall file a written acceptance of the certificates herein granted.
- (b) Within sixty (60) days after the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public, applicants 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, tariffs and time schedules satisfactory to the Commission.
- (c) Subject to the authority of this Commission to change or modify them by further order, applicants shall conduct operations pursuant to the certificates herein granted over and along the following routes:

Applicant in Application No. 31450:

Between Sears Point and Santa Rosa: California Highways 12 and 37. Between Petaluma and Sonoma: unnumbered County Highway. Between El Verano and Sonoma: unnumbered County Highway. Between Sonoma and Napa: California Highways 12 and 37, and unnumbered County highway through Vineburg.

Applicant in Application No. 31462:

Between Petaluma and Sonoma: unnumbered County Highway through El Verano. Between Sonoma and Boyes Springs: California Highway 12.

(4) That in all other respects these applications are hereby denied.

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

A-31450
A-31462 GH

Dated at Los Angeles, California, this 9th
day of January, 1951.

R. E. Anderson
Justin J. Casimer
Harold D. Hale
Ferneth Potter

Commissioners