

ORIGINAL

Decision No. 45498

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
VALLEY EXPRESS CO. and VALLEY MOTOR)
LINES, INC., for an extension of the)
operating rights of VALLEY MOTOR LINES,)
INC., to serve as underlying carrier)
for the express traffic of VALLEY)
EXPRESS CO. between all points and)
places intermediate between San)
Francisco and San Jose situated on)
and along U. S. Highway 101 and U. S.)
Highway 101 By-Pass, otherwise known)
as Bayshore Boulevard, on the one)
hand, and all points and places)
presently served by VALLEY EXPRESS)
CO., within the State of California,)
on the other hand.)

Application No. 31038

R. Edward Burton, for applicant.
William Meinhold and Frederick E. Fuhrman, for Southern
Pacific Company and Pacific Motor Trucking Company,
protestants.
Douglas Brookman, for Merchants Express Corporation,
protestant.

O P I N I O N

Valley Motor Lines, Inc., and Valley Express Co., request the issuance of a certificate of public convenience and necessity to Valley Motor Lines, Inc., authorizing it to extend its highway common carrier operating rights so as to enable it to serve points intermediate between San Francisco and San Jose on and along U. S. Highway 101 and U. S. Highway 101 By-Pass for the transportation of express traffic of Valley Express Co. moving between said points and all other points served by Valley Express Co. within the State of California, excluding any service locally between San Francisco, San Jose and said intermediate points.

Public hearings were held at San Francisco before Examiner Silverhart and the matter submitted on briefs, since filed.

The general traffic manager of both applicants testified that Valley Express Co. is an express corporation as defined by the Public Utilities Act, and operates practically statewide including the points here involved; that Valley Motor Lines, Inc., is a highway common carrier holding certificates to operate generally between Los Angeles, on the south, and Susanville, on the north, including San Francisco Bay Area points and San Jose, and, as to the areas which it is authorized to serve, acts as the principal underlying carrier for the traffic of Valley Express Co. Merchants Express Corporation is presently utilized as an underlying carrier to transport Valley Express Co.'s express traffic between points intermediate between San Francisco and San Jose.

The witness asserted that Valley Express Co., in using Merchants Express Corporation as its underlying carrier was affording its shippers, situated at the Peninsula points encompassed within the scope of the application, a second-day service; that he has received complaints concerning the slowness of such service accorded these shippers, and has been requested to furnish a direct overnight service from said Peninsula points to the various points which applicants are now authorized to serve. Applicants (both of which are controlled by the same management) propose to use Valley Motor Lines, Inc., as the sole underlying carrier for Valley Express Co. to the extent authority therefor is sought herein. An overnight service providing delivery at destination the following morning would be rendered; inbound schedules would depart from San Jose at 8 a.m. and from San Francisco at 9 a.m. and arrive at Redwood City at 12 noon; outbound schedules would arrive at San Jose and San Francisco usually between 4 p.m. and 5 p.m. and there be placed on line-haul equipment. The record indicates that Valley Motor Lines, Inc., possesses adequate financial resources to inaugurate and

maintain the proposed service.

Representatives of twelve concerns which maintain establishments for the transaction of business at South San Francisco, Millbrae, Palo Alto, Redwood City, San Bruno and Sunnyvale testified upon applicants' behalf. Shipments ranging from 10 pounds to 60,000 pounds, truckloads and carloads are made daily from the above points to various other points served by applicants. A majority of the witnesses stated an overnight service was needed and they would use the service proposed herein.

Several witnesses stated that on some occasions, in order to obtain overnight service, they transported or had contract carriers or draymen carry shipments to the docks of the common carriers in San Francisco. This, they said, caused delays, additional handling and expense. One witness employing the combined services provided by Merchants Express Corporation and Valley Express Co. indicated that he preferred to use one carrier rather than a combination of carriers. Some witnesses found Pacific Motor Trucking service unsatisfactory. Others stated that pickup by Merchants Express Corporation and delivery by Valley Express Co. had not produced overnight service.

Southern Pacific Company, Pacific Motor Trucking Company and Merchants Express Corporation, protested the granting of the application. The protestants did not present any public witnesses. According to the testimony of its president, Merchants Express Corporation picks up outbound shipments at various Peninsula points, as underlying carrier for Valley Express Co. and delivers the bulk of them to it the following day, outbound shipments picked up at lower Peninsula points are interchanged the same day; shipments

inbound to Peninsula point, if tendered by Valley Express Co. in the morning, are transported to destination the same day. The witness stated that his company proposed and intended to render a daily overnight direct one-line service from Peninsula points ⁽¹⁾ to ⁽²⁾ such points as Stockton, Lodi, Sacramento, Marysville and Redding, upon the effective date of publication of rates therefor. Such an operation would be directly competitive between the aforesaid points with Valley Express Co.

The service rendered by Southern Pacific Company and Pacific Motor Trucking Company as to the points covered by this application was described by a member of their bureau of research. Generally a coordinated rail and truck service is offered; overnight service is furnished from Peninsula points to Los Angeles and Fresno, other points are accorded second-day delivery; in the main shipments to Peninsula points receive second-day delivery.

Protestants urge the denial of the application, principally upon the following grounds:

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- (1) Merchants Express Corporation acquired the right to operate as a highway common carrier between San Francisco, San Jose and intermediate points, from Valley Motor Lines, Inc., pursuant to the provisions of Decision No. 40105, dated March 25, 1947, in Application No. 28154. The right was originally granted to Pioneer Express Company (Decision No. 6042, December 30, 1918) and subsequently transferred to Valley Motor Lines, Inc., (Decision No. 34349, June 24, 1941).
 - (2) Merchants Express Corporation acquired operating rights as to these points, from M. L. Morris, doing business as M & W Truck Line and R. W. Ford, doing business as Pacific Transfer Company, pursuant to the terms of Decision No. 44269, dated May 26, 1950, in Application No. 30980. Such rights were originally granted M. L. Morris by Decision No. 43080, dated June 28, 1949, in Application No. 27140, and to R. E. Ford by Decision No. 43106, dated July 6, 1949, in Application No. 29308.

1. That the operating rights sold by Valley Motor Lines, Inc. to Merchants Express Corporation pursuant to Decision No. 40105, dated March 25, 1947, in Application No. 28154, were unrestricted and comprehended not only the right to transport property moving locally between San Francisco, San Jose and intermediate points, but the right to transport property moving between points on the San Francisco Peninsula and points beyond San Francisco and San Jose as well and that Valley Motor Lines, Inc. now seeks to regain in part an identical duplication of the operating rights transferred.

2. That public convenience and necessity has not been established to warrant re-entry of Valley Motor Lines, Inc., on the San Francisco Peninsula.

Ordering paragraph (1) of Decision No. 40105, dated March 25, 1947, provides

"That Valley Motor Lines, Inc. be and it is hereby authorized, on or before May 1, 1947, to transfer to Merchants Express Corporation the certificate authorizing operations as a highway common carrier between San Francisco, San Jose and intermediate points formerly held by Pioneer Express Company and subsequently acquired by Valley Motor Lines, Inc. pursuant to Decision No. 34349, dated June 24, 1941, in Application No. 24194, and Merchants Express Corporation is hereby authorized to acquire said operative right and thereafter to operate under and commensurate with said right." (underscoring added)

It is readily apparent that such decision not only did not purport to grant Merchants Express Corporation the right to transport property beyond San Francisco and San Jose but specifically delineated the authorized operation as being between San Francisco, San Jose and intermediate points. In this proceeding, Valley Motor Lines, Inc. asks for authority limiting it to serve only as the underlying carrier for Valley Express Co. between San Francisco and San Jose and intermediate points, on the one hand, and other points served by Valley Express Co, on the other hand, excluding all local service between San Francisco and San Jose and intermediate points. We do not perceive therefore, that the proposed service is an identical duplication, in part, of the right to furnish highway common carrier service between San Francisco and San Jose which Valley Motor Lines, Inc. conveyed to Merchants Express Corporation.

An examination of the record discloses that Valley Express Co., in order to transport its express traffic originating at or destined to Peninsula points must utilize the services of underlying carriers. It appears that Valley Express Co. presently renders second-day delivery to and from such points because, for the most part, schedules of the underlying carriers cannot be coordinated with Valley Express Co.'s so as to permit daily overnight service. The evidence indicates that there is a substantial demand for overnight service between the points here involved and other points served by Valley Express Co. The record shows that permitting Valley Motor Lines, Inc., to serve as the underlying highway common carrier for the transportation of express traffic of Valley Express Co. to and from San Francisco Peninsula points will reduce handling of freight now required by transfer between Merchants Express Corporation and Valley Motor Lines, Inc., will effect a savings in time and money, will allow applicants to cope with the competitive situation and enable them to offer an improved service beneficial to the shipping public.

The record demonstrates, and we so find, that public convenience and necessity require that the application be granted to the extent set forth in the ensuing order.

O R D E R

Public hearings having been held and evidence having been adduced therein,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Valley Motor Lines, Inc., authorizing it to operate as a highway common carrier, as defined by Section 2-3/4 of the Public

Utilities Act, for the transportation of express traffic of Valley Express Co., between San Francisco and San Jose and intermediate points on, over and along U. S. Highway 101 and U. S. Highway 101 By-Pass, on the one hand, and points Valley Motor Lines, Inc. is presently authorized to serve, on the other hand, except that service shall not be rendered locally to, from or between San Francisco, San Jose and intermediate points.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- a. Within 30 days after the effective date of this order, applicant shall file a written acceptance of the certificate herein granted.
- b. Within 60 days after the effective date hereof, applicant shall 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 schedules on not less than 5 days' notice to the Commission and the public.

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

Dated at San Francisco, California, this 27th day of March, 1951.

J. P. [Signature]
Justus J. [Signature]
Harold H. [Signature]
[Signature]
[Signature]
 COMMISSIONERS