

Decision No. 47066**ORIGINAL**

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 certificates)
 to include service to certain points)
 located on or within the general)
 vicinity of its existing routes of)
 service.)

Application No. 32322

Douglas Brookman and N. R. Moon, for applicant.
Frederick R. Fuhrman, for Southern Pacific Company,
 Pacific Motor Transport Company, and Petaluma and
 Santa Rosa Railway Company; Frederick W. Mielke,
 for Delta Lines, Inc.; Scott Elder, for Circle
 Freight Lines, and M. A. Gilardy, dba Interlines
 Motor Express; Spurgeon Avakian, for Staple Truck
 Lines; Willard S. Johnson, for J. Christenson Co.,
 and Jacques A. Reutlinger, dba Bonded Draying
 Service, protestants.
Willard S. Johnson, for J. A. Nevis, dba Joe A. Nevis
 Trucking, interested party.

O P I N I O N

By the instant application, Merchants Express Corporation seeks a certificate of public convenience and necessity authorizing it to transport general commodities, except petroleum products in bulk and uncrated used household goods, to all points between Vallejo and Sacramento (including Benicia), Sacramento and Lodi, Sacramento and Citrus (including Mather Field), Lafayette and Pinole via Pacheco (including Concord), and Orland and Chico. By amendment made during the course of the proceeding herein, Merchants withdrew a further request to serve the Forestville, Monte Rio, Guerneville, Rio Nido area.

Merchants presently renders a highway common carrier service in the San Francisco Bay area generally, and south to San Jose, north to Healdsburg and Calistoga, and east and north to

Stockton, Sacramento and Redding. The authority sought herein would, if granted, enable Merchants to render service (a) to points intermediate to points now authorized to be served and along the routes now traversed, and (b) to new areas lying within the periphery of the present service, including one short spur outside thereof to Citrus.

Public hearings were held before Examiner Gillard in San Francisco, Walnut Creek, Fairfield and Sacramento, and the matter was submitted for decision at the conclusion thereof on January 3, 1952.

Merchants proposes to render an overnight service between these additional points and all points on its existing routes, and to charge the level of minimum rates established by the Commission in Highway Carriers' Tariff No. 2 and supplements thereto. A review of the record herein indicates that applicant possesses sufficient equipment, financial resources and terminal facilities to render the proposed service.

In support of its application, Merchants produced consignor witnesses from the Bay area and Sacramento, and consignee witnesses from the various points sought to be served.

The general tenor of the testimony of the consignor witnesses is that they are presently using applicant's certificated service within the Bay area and to points like Lafayette, Vallejo, Sacramento and Stockton, and are receiving two regular pickups daily from this carrier. If applicant were authorized to serve the intermediate and adjacent points sought herein, it would be economically beneficial to them in segregating their shipments, and clearing their dock space, and in their office procedures and billing practices. ✓ ✓

In some instances, the force of this testimony was weakened or eliminated by admissions that present services, for

example to Walnut Creek, were satisfactory and would be continued, or that another carrier was presently being used to Vallejo, Sacramento and Stockton and its service was satisfactory to those and the intermediate points. There were also a few witnesses who divided their business fairly uniformly to all available carriers and supported the applicant so its service could be used in like manner to the new areas.

There was testimony, however, from a substantial number of witnesses who use applicant as their primary carrier to all points served by it and believe they could operate more efficiently if applicant were authorized to serve these intermediate and contiguous points. Such a situation would relieve them of the necessity of trying to secure a pickup from another carrier which did not provide them with a regular pickup service. It would relieve them from segregating these shipments from the bulk to be carried by Merchants, and it would clear their storage space twice a day of shipments to be carried by applicant. To a certain extent, it was testified, this situation would produce office economies in accounting and remitting to but one carrier.

In all other respects, none of these shippers had any, or any substantial, complaint against the protestants. Pickups were made on the day requested, with following day delivery, and the shipments were otherwise handled in a satisfactory manner. Notwithstanding these circumstances, these witnesses believed, for the reasons above summarized, that their over-all transportation needs would be better served if this application were granted.

The consignee witnesses, with some exceptions, did not establish a need for this additional service. Some voiced a complaint about slow deliveries, but the frequency of these occurrences is too small to indicate that these services are inadequate. Some

of these witnesses do not specify a carrier on their orders, and the record does not indicate they will change in this respect. Other witnesses had no complaints concerning present services, but supported applicant on the general theory that another carrier would be good for the community or because they had previously used applicant (to Walnut Creek) and would do so again.

Support for the applicant by consignee witnesses was supplied mainly by complaints on interline shipments which created delays, damage, and double freight charges. However, the witnesses so testifying were so few, and the volume of freight involved is so small, that this evidence by itself will not establish a need for applicant's service.

None of applicant's witnesses, either consignor or consignee, testified as to any need for the movement of commodities under refrigeration.

There is some support in the record for applicant's service along State Highway No. 32 between Orland and Chico. The only town on this road is Hamilton City, and applicant now traverses this road regularly in rendering service to Chico and Orland. No serious protest is made concerning this portion of the application.

Applicant's consignor witnesses from Sacramento established a very definite need for service to Travis Air Force Base, which is served only from Sacramento, according to the testimony of these witnesses, twice weekly by Sacramento Northern Railway. However, a need for additional transportation facilities to this point from San Francisco has not been established because of the small quantity of freight involved, the quality of the service by Bonded Draying Service, and the inadequacy of the reasons advanced in support of applicant's proposal by the witnesses having shipments to the Base.

With the exception of the points referred to in the preceding two paragraphs, applicant's case rests largely upon the needs of the consignor witnesses from San Francisco hereinbefore discussed. The weight to be accorded thereto must be determined in the light of applicant's consignee witness testimony and the evidence produced by respondents.

Applicant made its weakest showing by these consignor witnesses relative to Benicia and the Citrus extension. Since these points are not on routes presently served, applicant's showing cannot be bolstered by any consideration of indirect public benefit accruing by reason of more economic utilization of applicant's delivery trucks.

Concerning Walnut Creek and Concord, applicant's case was considerably weakened by the testimony of its own consignee witnesses from those points, almost every one of whom testified he was satisfied with and would continue to use protestants' services. Protestants also produced numerous witnesses who testified that they specified, and would continue to specify, the existing carriers. Some of these witnesses receive merchandise from applicant's consignor witnesses. This testimony directly weakens the position of these latter witnesses and their desires for only one carrier to this area.

The record supports applicant's request for authority to serve points between Vallejo and Sacramento, including Travis Air Force Base from Sacramento only, and Sacramento and Lodi; and as to such areas, and the area between Chico and Orland already referred to, we find that public convenience and necessity require that the application be granted. This finding is made after careful consideration of all factors presented on this record, including the quality of the services presently being rendered by protestants,

and the fact that Delta Lines, Inc., had not commenced service under a new certificate to points between Sacramento and Lodi at the time public witness testimony was received herein.

O R D E R

Public hearings having been held in the above-entitled proceeding and the Commission 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 213 of the Public Utilities Code, for the transportation of general commodities, except petroleum products in bulk, commodities requiring refrigeration, and uncrated used household goods, (a) between Cordelia, Fairfield, Suisun, Vacaville, Elmira, Batavia, Dixon, Florin, Elk Grove, Galt, and all points on State Highway No. 32 between Chico and Orland, on the one hand, and all points presently authorized to be served by applicant, on the other, and (b) between Sacramento and Travis Air Force Base, provided that the authority conferred in this subsection shall not be enlarged by any through route or joint rate with any other point authorized to be served by applicant under any operative right possessed by it.

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

- (a) Within thirty (30) days after the effective date hereof, applicant shall file a written acceptance of the certificate 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, applicant shall establish the service herein authorized and file in triplicate, and concurrently make 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, applicant shall conduct operations pursuant to the certificate herein granted over and along the following routes:

Between U. S. Highway No. 40 and Cordelia, Fairfield, Suisun, Travis Air Force Base, Vacaville, Elmira, Batavia and Dixon: All available connecting highways; between U. S. Highway No. 99 and Florin and Elk Grove: All available connecting highways.

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

Dated at San Francisco, California, this 29th day of April, 1952.

[Signature]
 President
[Signature]
[Signature]
[Signature]
 Commissioners

Commissioner Justus F. Craemer, being necessarily absent, did not participate in the disposition of this proceeding.