

**ORIGINAL**

Decision No. 59823

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
VALLEY EXPRESS CO. for a Certificate )  
of Public Convenience and Necessity )  
as an express corporation, and re- )  
moval of a limitation. )

Application No. 41601

Crossland, Crossland & Richardson, by Robert S. Crossland, for applicant.

O P I N I O N

Valley Express Co. is an express corporation as defined in Section 219 of the Public Utilities Code. It holds extensive grandfather rights as an express corporation based on operations conducted prior to August 1, 1933. In addition, it holds various certificates of public convenience and necessity issued by this Commission. By this application, Valley Express Co. seeks additional express company operating rights so that its service area will be coextensive with that of its affiliated company, Valley Motor Lines, Inc. Also, Valley Express Co. seeks the removal of certain alleged restrictions contained in its operating rights.

A duly noticed public hearing was held in this matter before Examiner Donald B. Jarvis at San Francisco on December 2, 1959.

The evidence of record discloses that applicant and its affiliated company Valley Motor Lines, Inc., own approximately 1144 pieces of operating equipment and operate 15 terminals in the State of California. Applicant's gross operating revenues for the first nine months of 1959 were \$3,903,655 with an earned surplus for that

period of \$128,604. The Commission finds that applicant has the ability, including financial ability, to conduct the operations for which authority is herein sought.

The record indicates that applicant and its affiliated company, Valley Motor Lines, Inc., are under common control and management, and jointly operate certain common equipment and facilities. Approximately 95 percent of the traffic generated by the two companies is transported on applicant's billing. In areas where applicant's operating rights are not coextensive with Valley Motor Lines, there is a duplication of equipment and personnel by these affiliated companies. A survey conducted by applicant indicates that there is a 1½ percent error factor in routing shipments because of the difference in operating rights between the affiliated companies.

Applicant has on file with this Commission a tariff comprising approximately 400 pages. Valley Motor Lines has on file a tariff of approximately 150 pages. The general traffic manager of applicant and Valley Motor Lines testified that if this application were granted both companies would file a joint tariff with the Commission.

By granting applicant territorial rights coextensive with those of Valley Motor Lines, applicant will be able to prevent unnecessary duplication of personnel and facilities and it will be able to adopt simpler internal administrative procedures, all of which should inure to the benefit of the public in the form of better transportation service by applicant.

The Commission finds that public convenience and necessity require the granting to applicant of territorial operating rights coextensive with those of Valley Motor Lines.

Applicant also requests authority to change its tariff with respect to the transportation of articles requiring refrigeration.

Item 120 of applicant's Local and Joint Express Tariff No. 9-B provides in part as follows:

ARTICLES NOT ACCEPTED FOR SHIPMENT

Unless otherwise provided, the following articles will not be accepted for shipment:

. . .

(f) Articles requiring refrigeration  
(see Note).

. . .

NOTE: Articles requiring refrigeration will be accepted for transportation provided that consignor furnishes adequate refrigerants. Such refrigerants shall become the property of this carrier. When such articles are accepted for transportation under the provisions of this note, such transportation will, insofar as resulting damage from lack of adequate refrigerants, be at consignor's risk.

Applicant herein seeks authority to publish rates for refrigerated commodities in accordance with the provisions of Decision No. 51606 heretofore entered by this Commission.

Decision No. 58601 in Application No. 40718 denied applicant the authority to publish rates for refrigerated commodities on the ground that applicant had abandoned its operative rights with respect to the transportation of articles in refrigeration service. Thus, applicant's request to publish rates for refrigerated commodities is in effect a request for additional operating rights and it will be so treated.

The record discloses that applicant's affiliate, Valley Motor Lines, has the authority to transport articles in refrigeration

service. Since the operations of the two companies are, in the main, jointly conducted, it is necessary for the companies to have cumbersome procedures to insure that refrigerated commodities are received for shipment by Valley Motor Lines and are transported solely with its equipment and personnel. In many instances this causes an uneconomical use of personnel and equipment. If applicant is granted the authority to transport articles in refrigeration service it will be able to render a more expeditious service which will be of benefit to the public.

The Commission finds that public convenience and necessity require that applicant be granted the authority to transport commodities in refrigeration service and to establish rates therefor.

During the consideration of this matter by the Commission it became apparent that Valley Express Company's operating rights are a conglomerate of grandfather rights and rights granted by this Commission in numerous decisions over the years. These rights are, in their present form, confusing to the public and the cumbersome form in which they now exist hampers this Commission in its duties of orderly administering applicable regulatory statutes and regulations. Valley Express Company will be required to file an application to consolidate all of its operating rights in an in-lieu certificate of public convenience and necessity.

Valley Express Co. is hereby placed on notice that operative rights, as such, do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, such rights extend to the holder a full or

partial monopoly of a class of business over a particular route. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

A public hearing having been held, and based upon the evidence therein adduced,

IT IS ORDERED that:

1. A certificate of public convenience and necessity is granted to Valley Express Co., a corporation, authorizing it to operate as an express corporation as defined by Section 219 of the Public Utilities Code for the transportation of property between the points as more particularly set forth in Appendix A attached hereto and made a part hereof.

2. Valley Express Co., a corporation, is hereby authorized to transport, between all points and places which it is authorized to serve, commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerator equipment.

3. Within thirty days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicant is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to

file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.

4. Within sixty days after the effective date hereof, and on not less than ten days' notice to the Commission and to the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective, tariffs satisfactory to the Commission.

5. Applicant shall, within ninety days after the effective date of this order, file an application with this Commission seeking the consolidation of all of its operating rights in an in-lieu certificate of public convenience and necessity.

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

Dated at San Francisco, California, this 22<sup>nd</sup> day of March, 1960.

[Signature]  
President

[Signature]

[Signature]

[Signature]  
Commissioners

Valley Express Co., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities, with the exceptions hereinafter noted, between all points and places which it is now authorized to serve and the following points and places:

Alcoa	Elderwood	Odessa
Alpaugh	Elk	Paige
Anderson	El Nido	Palmo
Angiola	Empire	Paynes Creek
Antioch	Florin	Permanente
Auburn U.S. Hospital	Freeport	Pinecrest
Avenal	Fresno Air Base (U.S.)	Pinedale
Avon	Government City	Pittsburg
Banta	Guernsey	Plainsburg
Beardsley Dam	Helm	Planada
Bethany	Kilmar	Poplar
Boontown	Hood	Port Chicago
Borden	Hub	Quality
Bowles	Hughson	Raisin City
Brentwood	Irwin	Red Banks
(Contra Costa Co.)	Isleton	Red Bluff
Suckeye	Ivanhoe	Redding
Buena Vista	Jamestown	Rio Vista
Bumble Bee	Jastro	Riverbank
Burchell	Keystone	Riverbank Ordinance
Burrell	Knights Ferry	Robertsville
Byron	Le Grand	Ryde
Camp Beale	Lemon Cove	Saratoga
Campbell	Lemoore Airport (U.S.)	Seville
Cella Vineyards	Lisko	Shasta Dam
Central Valley	Locke	Sonora
Chemurgic	Lois	Soulsbyville
Chester	Long Barn	Standard
Childs Meadow	Los Altos	Strawberry
Clarksburg	Los Gatos	Summit City
Cold Springs	Los Molinos	Sunland
Conejo	Lyoth	Susanville
Confidence	Maltermoro	Thornton
Cottonwood	McAvoy	Tuolumne
Courtland	McHenry	Tuttle
Cupertino	Merced Airport (U.S.)	Twain Harte
Denair	Mineral	Ultra
Donnels Dam	Minkler	Una
Easton	Monmouth	Vernalis

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Vestal  
Walnut Grove  
Waukena  
Westley

Westwood (Lassen Co.)  
Wheatville  
Winton  
Woodbridge

Woodlake  
Woodville  
Yosemite Junction  
Zante

Applicant shall not transport any shipments of:

1. Articles of extraordinary value.
2. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (c) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.

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