

ORIGINAL

Decision No. 60800

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
RAILWAY EXPRESS AGENCY, INCORPORATED,
for authority (a) to provide collec-
tion and delivery of express shipments
by motor trucks from Redwood City and
San Jose to termini in the Peninsula
area; (b) to close its offices now
serving said termini; and (c) to
change the waybilling of shipments
from said offices thereby increasing
certain intrastate charges.

Application No. 42528
(Amended)

Pillsbury, Madison & Sutro, and Eugene M. Prince,
by Dudley A. Zinke, for applicant.
Roger L. Ramsey, for United Parcel Service, pro-
testant.
Philip W. Storm, for City of Cupertino; Clifford
J. Van Duker, for California Floral Traffic
Conference and United Shippers Association;
E. A. McMillan, for California State Legisla-
tive Committee, Brotherhood of Railway Clerks;
interested parties.
M. E. Getchel, for the Commission staff.

O P I N I O N

Railway Express Agency proposes to close eleven agency
offices in San Mateo and Santa Clara Counties (located in the
"Peninsula" and San Jose areas, respectively). The Agency proposes
concurrently to consolidate express operations in those areas by
providing collection and delivery service by motor trucks directly
between Redwood City and 16 other communities in the Peninsula area,
and between San Jose and 12 other communities in the San Jose area.
Traffic between the two areas would also be handled by motor truck.
Additionally, the Agency proposes to make Redwood City and San Jose
the waybilling points for all shipments forwarded from or delivered
to points in the respective areas. The purpose of the plan is to
improve the service and to reduce operating costs.

As a necessary step in the execution of the foregoing plan, the Agency seeks the following authority by this application, as amended:

1. To close the express offices now maintained at South San Francisco, Burlingame, San Mateo, Belmont, Palo Alto, Mountain View, Sunnyvale, Agnew, Saratoga, Los Gatos and Gilroy.

2. To establish increased rates and charges to the extent that such will result from the proposed transfer of waybilling of shipments from the above-mentioned offices to Redwood City and San Jose.

3. To operate as a highway common carrier (as defined in Section 213 of the Public Utilities Code) in the transportation of property, exclusive of certain specified articles, between South San Francisco, Colma, Brisbane, San Francisco International Airport, San Bruno, Millbrae, Burlingame, Hillsborough, San Mateo, Belmont, San Carlos, Redwood City, Atherton, Menlo Park, Palo Alto, Stanford University, Mountain View, Sunnyvale, Agnew, Milpitas, Santa Clara, Los Altos, Cupertino, Saratoga, Los Gatos, Campbell, Cambrian Park, San Jose, Morgan Hill, San Martin, Gilroy, and all intermediate points.^{1/} Applicant proposes to operate over any and all convenient public streets and highways between said points.

4. Revocation of a certificate granted by Decision No. 53479 of July 23, 1956, in Application No. 38005, under which applicant is authorized to operate as a highway common carrier between San Francisco International Airport and the cities of Burlingame, San Mateo and Palo Alto.

^{1/} At the hearing counsel for applicant stated that if any authority granted pursuant to the request to serve "all intermediate points" were limited to "all intermediate points on U.S. Highway 101 between San Jose and Gilroy" it would be satisfactory to applicant.

Public hearing of the application was held before Examiner Carter R. Bishop at Palo Alto on August 30 and 31, 1960.

Evidence was adduced on behalf of applicant by its regional vice president, the superintendent of its Northern California, Nevada and Oregon Division, and its division supervisor and by ten shipper witnesses. No evidence was offered by other parties to the proceeding. The granting of the application was opposed conditionally by United Parcel Service. Counsel for that organization, for California Floral Traffic Conference and United Shippers Association, the representative of an express employees' union, and an associate transportation engineer from the Commission's staff all participated in the development of the record. ✓

The history of the Agency and its predecessor companies, the nature of its services, its methods of operation, and its contractual relationships with the railroads (its principal underlying carriers) have been set forth in some detail in Decision No. 59927, dated April 12, 1960.^{2/} In that decision are also described the financial difficulties in which the Agency finds itself, and the program which it has initiated in an attempt to place its operations on an economically sound basis and to assure its continued existence as an essential transportation agency.

The consolidation plan embraced by the proceeding herein, the record shows, is one of a series which the Agency has instituted on a nation-wide scale as a part of the aforementioned program of modernization. At the present time, applicant provides collection and delivery service in 24 of the 31 communities mentioned in numbered paragraph 3 above. It is proposed to provide such service

^{2/} In Application No. 41694. The decision in question relates to a similar consolidation plan of the Agency for operations in Oakland and vicinity.

in six of the other named communities,^{3/} and to extend the existing collection and delivery limits of 18 communities to meet the commercial expansion of those areas.^{4/} Patrons located in those communities where no collection and delivery service is provided are presently required to forward or take delivery of express shipments at the nearest agency office. The proposed establishment of new collection and delivery zones and extensions of existing zones will bring the Agency's service to said patrons' premises.^{5/}

Express shipments, the record shows, originally moved by passenger trains from and to all of the Agency offices herein proposed to be closed. Currently, rail express service is provided at six of the eleven offices. Service from and to the remainder is now provided by highway vehicles of the Agency, operating under highway common carrier certificates which it holds, or of Pacific Motor Trucking Company.

The record shows that over 80 percent of the Agency's surface express traffic to and from the Peninsula and San Jose areas is interstate in character. Inbound traffic, for example, arriving

^{3/} They are: Brisbane, Agnew, Cupertino, Morgan Hill, Saratoga and San Martin. No collection and delivery service is proposed for San Francisco International Airport, where a field office is maintained primarily for the purpose of sorting, routing and handling air express.

^{4/} Extensions would be made at South San Francisco, San Bruno, Millbrae, Burlingame, Hillsborough, Belmont, Atherton, Menlo Park, Palo Alto, Stanford University, Mountain View, Sunnyvale, Los Altos, Los Gatos, Campbell, Cambrian Park, San Jose and Gilroy.

^{5/} Under the consolidation plan involved herein, patrons located outside the proposed collection and delivery limits would be required to go to San Francisco, Redwood City or San Jose in order to utilize the Agency's services. However, the record indicates that the number of patrons who fall in this category is small. Those for whom one of the above-mentioned offices is not convenient will presumably utilize parcel post.

by train at Oakland is transferred there to trucks for movements across the bay to San Francisco, where it is again transferred to a train. After the local train movement there is often an additional highway movement to destination point. Under the proposal herein traffic will move directly by highway vehicles between Oakland, on the one hand, and Redwood City and San Jose, on the other,^{6/} for distribution in the respective areas which will be served out of the latter two points.^{7/} The elimination of the present San Francisco transfer, the superintendent stated, will serve to shorten the transit time of the express traffic in question.

Additionally, the record indicates, the proposed highway operation within the two service areas will greatly expedite the handling of express shipments from and to points in said areas, and at the same time will provide the Agency's patrons with a much more flexible service, including later pickups, than is possible under the present arrangements with underlying carriers. Among the advantages, also, will be service on Saturdays, Sundays and holidays on air express shipments, when requested, and on rail express shipments of perishable commodities and live animals.

An essential part of the consolidation plan is applicant's offer to provide toll-free telephone service to its Redwood City and San Jose offices for customers located inside the consolidation areas but outside the local telephone calling areas of the above-mentioned points. This arrangement will enable patrons affected by the proposals herein to request pickup service and transact other business without having to pay a toll charge.

^{6/} The transportation from and to Oakland would be performed for account of the Agency by Pacific Motor Trucking Company.

^{7/} Under the consolidation plan Los Altos, Mountain View and Peninsula points located northerly thereof would be served out of the Redwood City office. The remainder of the points for which a highway certificate is sought would be served from San Jose.

The proposal to make Redwood City and San Jose the way-billing points for all shipments originating or terminating in the consolidation areas, the record shows, will result in some minor increases and decreases in rail express charges.^{8/} In most instances, there will be no change in rates. With respect to air express shipments, all patrons located outside the present air express collection and delivery limits will enjoy a reduction in charges of not less than \$2.36 per shipment, through the elimination of the present surface transportation charge.

According to applicant's witnesses no Agency employees will lose their positions if the proposed consolidation of offices is accomplished. All nonsupervisory positions in the offices to be consolidated will be continued at the consolidated offices at either Redwood City or San Jose. Three supervisory positions will be eliminated and the employees now holding those positions will be transferred to supervisory positions elsewhere. A transfer position at San Francisco will also be eliminated and the present employee transferred to other duties.

The pool of vehicles now assigned to the Peninsula and San Jose areas, the superintendent testified, will be adequate for the proposed plan of operation.

Applicant estimates that the consolidation plan here under consideration will result in net annual savings of approximately \$33,000 per year in operating expenses at points in the consolidation areas, plus an additional amount of \$25,000 per year by elimination of the present transfer operation at San Francisco. These figures do not include certain additional anticipated savings,

^{8/} Substantial reductions will result in connection with shipments between Agnew, Gilroy, Los Gatos, and San Jose, on the one hand, and Los Angeles, on the other hand.

the dollar amount of which could not be estimated. Among these items were the reduction in administrative, supervisory, auditing and security expenses which will result from the centralization of the Agency's activities in two terminals, instead of 13 separate offices, as at present.

The testimony of the ten shipper witnesses was offered to show the continuing need for the transportation service here in issue, as proposed to be performed under the sought highway common carrier certificate. These witnesses severally represented various manufacturers, a testing laboratory and an electronics research organization located in the consolidation area. The testimony of these witnesses was substantially as follows: all are regular patrons of the Agency; for each concern these services are essential, notably because of the fast service which their activities require; all would benefit by the more expeditious service contemplated under the Agency's proposed plan of operation; applicant's value to those concerns which do not now enjoy store door and collection service of express shipments will be enhanced if such service is accorded them; all will continue to need the Agency's services if the consolidation plan is placed in effect.

United Parcel Service does not oppose applicant's plan to consolidate operations in Redwood City and San Jose nor the granting of the sought highway common carrier certificate, provided that such certificate is restricted to traffic which shall move under a through bill of lading or express receipt, and which shall receive, in addition to the highway carrier movement in question, an immediately prior or subsequent movement by rail, water, air or line-haul truck transportation.^{9/} United strongly objected to the issuance of a

^{9/} As an alternative, United suggested that any certificate issued pursuant to this application include the condition that operations conducted thereunder continue to be of the same general type and character as those conducted nationally by the Agency and that the service would not be converted to a general truck or parcel delivery operation.

certificate devoid of such a restriction. As in earlier proceedings in this series, United's counsel pointed out that, while applicant is not now competitive with parcel delivery carriers or with general freight carriers, it could, under an unrestricted certificate, establish a full-scale truck operation.

The Agency urged that it needs an unrestricted certificate in order to continue to take care of local movements within the areas here in issue. The record shows that such movements average less than 7 shipments per day and that 75 percent of these move between the two areas. United's counsel pointed out that since applicant proposes to have Pacific Motor Trucking Company perform the transportation, under contract, between the Redwood City and San Jose terminals, applicant would still be able to handle the inter-area traffic, in compliance with the restriction proposed by United.

The representative of the California Floral Traffic Conference questioned applicant's witness at length regarding the quality of service which, under the proposed consolidation, would be accorded the growers of cut flowers. According to the record, a large volume of this flower traffic originates in the Peninsula area for shipment by express to eastern points. The representative expressed concern that the proposed service be as expeditious and otherwise satisfactory as are the present arrangements. It was stipulated that applicant's officers would work out operating details with said Conference so as to insure adequate service to the floral shippers under the consolidation plan.

The representative of the express employees' organization urged that, in the event that the application herein is granted, applicant be required to offer certain specified protection to any employees adversely affected by the consolidation plan. In the light of the record such a requirement does not appear justified.

Conclusions

The evidence of record shows that adoption of the proposed consolidation plan as hereinbefore set forth will result in the following principal advantages: (1) the Agency will be in a position to furnish service to the public more efficiently and more expeditiously than under the present methods of operation; (2) collection and delivery service will be extended to areas not now served; (3) the elimination of multiple handlings will result in faster service and in fewer loss or damage claims; (4) certain existing restrictions and limitations of the service will be removed; (5) the surface transfer charge of not less than \$2.36 per shipment on air express traffic will be completely eliminated from the consolidation areas; and (6) the proposed consolidation of offices will result in substantial savings in operating costs.

Based upon careful consideration of all the evidence and argument of record, we are of the opinion and hereby find as follows:

1. That consolidation in the Redwood City and San Jose offices of applicant of the service now rendered through the eleven offices herein proposed to be closed will not be adverse to the public interest.

2. That, concurrently with consolidation in applicant's Redwood City and San Jose offices of said service, public convenience and necessity will no longer require applicant to maintain any of said eleven offices.

3. That extension of the pickup and delivery limits as proposed in the application herein, as amended, is in the public interest and should be concurrently placed in effect together with consolidation of the eleven offices.

4. That the increases in rates and charges as proposed in said application are justified.

5. That public convenience and necessity require the issuance to applicant of a certificate as a highway common carrier between all points set forth in numbered paragraph 6 of said application, as amended, except that the unnamed intermediate points shall be confined to those located on U.S. Highway No. 101 between San Jose and Gilroy. Said certificate shall be subject to the conditions stated in numbered paragraphs 7 and 8 of said application and subject further to the condition hereinbelow set forth. ✓

6. That said certificate of public convenience and necessity shall be subject to the condition that transportation thereunder shall be limited to movements under a through bill of lading and having a prior or subsequent rail, water, air or truck haul.

7. That, concurrently with the effective date of said certificate, the highway common carrier certificate granted to applicant by Decision No. 53479, dated July 23, 1956, in Application No. 38005, will be revoked.

The application, as amended, will be granted to the extent indicated in the foregoing findings.

Applicant 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.

Applicant requests that it be given a period of 120 days within which to carry out the proposed consolidation plan. The record

indicates that approximately that period of time will be required to build or lease a new office or terminal at Redwood City to accommodate the expanded operation which will result from the Peninsula consolidation. The request is a reasonable one. It will be granted.

O R D E R

Based upon the evidence of record and the findings and conclusions set forth in the preceding opinion,

IT IS ORDERED that:

1. Railway Express Agency, Incorporated, is authorized, concurrently with the consolidation of service in its Redwood City and San Jose offices, as proposed in the application filed herein, to discontinue its offices at Agnew, Belmont, Burlingame, Gilroy, Los Gatos, Mountain View, Palo Alto, San Mateo, Saratoga, South San Francisco and Sunnyvale, subject to the following conditions:

- (a) Within 180 days after the effective date hereof, and on not less than ten days prior to the discontinuance of said agencies, applicant shall post a notice of such discontinuance at each of said offices, and, within 180 days after the effective date hereof and on not less than ten days' notice to the Commission and to the public, applicant shall file in triplicate amendments to its tariffs showing the changes authorized herein and shall make reference in such notice and tariffs to this decision as authority for the changes. In no event shall the agents be removed pursuant to the authority hereinabove granted earlier than the effective date of the tariff filings required hereunder.
- (b) Within thirty days after discontinuance of service as herein authorized, applicant shall notify this Commission in writing thereof and of compliance with the above conditions. Concurrently with discontinuance of said offices, applicant shall establish service to the extended pickup and delivery limits described in the application.

2. A certificate of public convenience and necessity is granted to Railway Express Agency, Incorporated, authorizing it to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of property between the points, over the routes and subject to the conditions particularly set forth in Appendix A, attached hereto and made a part hereof.

3. In providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) 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 and insurance requirements of the Commission's General Order No. 100-A. 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 Orders Nos. 99 and 100-A, may result in a cancellation of the operating authority granted by this decision.
- (b) Within 180 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.

4. The certificate of public convenience and necessity granted in paragraph 2 of this order is in lieu of and supersedes the certificate of public convenience and necessity granted by Decision No. 53479, which certificate is hereby canceled and revoked, said revocation to become effective concurrently with the effective date of the tariff filings required by paragraph 3(b) hereof.

5. Applicant is authorized to establish, on not less than thirty days' notice to the Commission and to the public, and concurrently with the closing of offices and the institution of highway common carrier service, as authorized in paragraphs 1 and 2 hereof, the increased rates and charges proposed in the application filed in this proceeding.

6. In all other respects Application No. 42528 is denied.

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

Dated at San Francisco, California, this 18th
day of OCTOBER, 1960.

Robert R. Brown
President
E. J. [illegible]
William J. [illegible]
D. [illegible] Fox
Theodore J. [illegible]
Commissioners

Railway Express Agency, Incorporated, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport all commodities except the following:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
2. Automobiles, trucks and buses, viz.: new and used finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses and bus chassis.
3. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
4. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such highway vehicles.
5. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
6. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
7. Excepted commodities as enumerated in Railway Express Agency, Incorporated's tariffs filed with this Commission and in effect on the effective date of Decision No. 60890, in Application No. 42528.

Issued by California Public Utilities Commission.

Decision No. 60890, Application No. 42528.

Appendix A

RAILWAY EXPRESS AGENCY, Original Page 2
INCORPORATED

BETWEEN the following points:

Agnew, Atherton, Belmont, Brisbane, Burlingame, Cambrian Park, Campbell, Colma, Cupertino, Gilroy, Hillsborough, Los Altos, Los Gatos, Menlo Park, Millbrae, Milpitas, Morgan Hill, Mountain View, Palo Alto, Redwood City, San Bruno, San Carlos, San Francisco International Airport, San Jose, San Martin, San Mateo, Santa Clara, Saratoga, South San Francisco, Stanford University, Sunnyvale, and all points on U.S. Highway 101 located between San Jose and Gilroy.

VIA any and all convenient public streets and highways between said points.

SUBJECT to the following condition:

The highway common carrier service herein authorized shall be limited to the transportation of express traffic of Railway Express Agency, Incorporated, under a through bill of lading or express receipt, and said traffic shall receive in addition to the highway carrier movement by applicant herein authorized, an immediately prior or immediately subsequent movement by rail, water, air or truck transportation.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 60890, Application No. 42528.