

**ORIGINAL**

Decision No. 61055

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of RAILWAY EXPRESS AGENCY, )  
INCORPORATED for authority (a) to pro- )  
vide collection and delivery of express )  
shipments by motor trucks operated )  
between Santa Barbara and termini within )  
the radius of not exceeding 40 miles )  
distant therefrom; (b) to close its )  
offices now serving said termini; and )  
(c) to change the waybilling of ship- )  
ments from said offices to the Santa )  
Barbara office thereby increasing )  
certain intrastate charges. )

Application No. 42504

Newlin, Tackabury & Johnson, by George W. Tackabury  
and Hudson B. Cox, for applicant.  
Roger L. Ramsey, for United Parcel Service, protestant.  
E. A. McMillan, for State Legislative Committee,  
Brotherhood of Railway Clerks, interested party.  
Lloyd C. Young, for the Commission's staff.

O P I N I O N

Railway Express Agency, Incorporated, proposes to consoli-  
date its express operations in the Santa Barbara-Oxnard area by  
providing collection and delivery service by motor trucks directly  
between its Santa Barbara office and nine other communities in said  
area. Applicant also plans to make Santa Barbara the waybilling  
point for all points proposed to be served from that office.

As a necessary step in the execution of its plan, the  
Agency seeks herein the following authority:

1. To close its offices located at Ventura and Oxnard.
2. To establish increased rates and charges to the extent that  
such will result from the proposed transfer of waybilling of shipments  
from Ventura and Oxnard to Santa Barbara.
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 articles, between Santa Barbara, Montecito, Summerland, Carpinteria, Ventura, Montalvo, Oxnard, Port Hueneme, Point Mugu and Oxnard Air Force Base.

Public hearing of the application was held before Examiner Carter R. Bishop at Ventura on September 12 and 13, 1960.

Evidence was presented on behalf of applicant by its regional vice president, the superintendent of its Southern California, Arizona, New Mexico Division, and its division supervisor, and by five shipper witnesses.<sup>1</sup> No evidence was offered by other parties to the proceeding. Granting of the application was opposed conditionally by United Parcel Service. Counsel for that organization, an employees' organization representative, and a transportation engineer from the Commission's staff participated in the development of the record.

The consolidation plan embraced by the proceeding herein, the record shows, is one of a series which the Agency has instituted on a nationwide scale in an effort to place its operations on a sound basis and to assure its continued existence as an essential transportation agency.<sup>2</sup>

In the area embraced by the application herein, the Agency now provides collection and delivery service at all the points named in numbered paragraph 3, above, except Summerland, Carpinteria and Montalvo. In addition to providing collection and delivery service

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<sup>1</sup> It was stipulated that two other shipper representatives, had they been present, would have testified to the same general effect as did the shipper witnesses who testified. Their prepared testimony was read into the record by counsel.

<sup>2</sup> The history of the Agency and its predecessor companies, the nature of its services, its methods of operation, its contractual relationships with the railroads, its financial difficulties, and the rehabilitation program which it has initiated have been set forth in some detail in Decision No. 59927 of April 12, 1960 in Application No. 41694. That proceeding relates to a similar consolidation plan of the Agency for operations in Oakland and vicinity.

in these latter communities, applicant proposes to enlarge the present collection and delivery areas of Ventura and Oxnard. Patrons located in those communities or sections 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.<sup>3</sup>

The testimony of applicant's vice president discloses that there has in recent years been a marked decrease in the number of passenger trains operating in California, on which applicant's traffic can be carried. This has resulted in increased handlings and delays due to long layovers while in transit. The superintendent pointed out that the proposed consolidation in Santa Barbara of area operations will have the effect of eliminating many of the handlings and will speed up the dispatch of shipments. Additionally, the proposed plan will enable applicant to provide service on Saturdays, Sundays and holidays on air express shipments 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 Santa Barbara office for customers located in the area involved herein but outside the local telephone calling area of Santa Barbara. This arrangement will enable such patrons to request pickup service and to transact other business without having to pay a toll charge.

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<sup>3</sup> Under the consolidation plan proposed herein, patrons located outside the proposed collection and delivery limits herein would be required to go to Santa Barbara or Santa Paula in order to utilize applicant's services, or arrangements could be made for collection and delivery to be made in care of a person located within the proposed collection and delivery limits.

According to the record, the proposal to make Santa Barbara the waybilling point for all points proposed to be served from that office will result in some minor increases and decreases in rail express charges. In most instances there will be no change in rates.

No Agency employees, the record indicates, will lose their positions if the proposed consolidation of offices is accomplished. Each of the salaried agents will be transferred to some other office in the same or a similar capacity. The driver-clerks now employed at Ventura and Oxnard will be transferred to Santa Barbara as drivers, at higher rates of pay. New employees will also be hired to augment the force at Santa Barbara.

Applicant estimates that the consolidation plan here under consideration will result in net annual savings of over \$10,000 per year in operating expenses. This amount does not include certain additional anticipated savings, the dollar amount of which could not be estimated. Among the latter are the reduction in administrative, supervisory, auditing and tariff expenses which will result from centralization of the Agency's activities in one terminal instead of three separate offices, as at present; and the decline in loss and damage payments which will follow the reduction in the number of handlings that will be accorded shipments.

The testimony of the 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 retail stores, a jewelry manufacturer, and a wholesaler and retailer of fresh fish, all located at points in the consolidation area. The testimony of these witnesses, with one exception, 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. The testimony of the excepted witness was to the effect that he does not use applicant's services because the nearest express office is at Santa Barbara. With the establishment of collection and delivery service at Carpinteria, as herein proposed, he would use the Agency's services extensively.

United Parcel Service does not oppose applicant's plan to consolidate operations 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. As an alternative, United suggested a restrictive clause to the effect that operations conducted under such certificate should continue to be of the same general type and character as operations conducted nationally by the Agency. This latter type of restriction, counsel for United pointed out, would permit applicant to continue to handle local shipments within the consolidation area. According to the record, such shipments, during a representative period, averaged less than one per day for the entire consolidation area. As in earlier proceedings in this series, United's counsel asserted 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. Counsel for applicant urged that any highway common carrier certificate issued as a result of the application should be so framed as to permit the Agency to continue to provide, under the proposed plan of operation, local service within the consolidation area.

### 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; and (5) the proposed consolidation of offices will result in substantial savings in operating costs.

With respect to the restriction, proposed by United, in the sought highway common carrier certificate, it appears that the language of the suggested alternative is too general to be of any value. The record further shows that the volume of traffic handled by the Agency in local service within the consolidation area is negligible. The type of restriction proposed by United in the first instance and heretofore adopted for certificates in earlier proceedings of this series will be attached to the certificate hereinafter authorized.

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 Santa Barbara office of applicant of the service now rendered through the two offices herein proposed to be closed will not be adverse to the public interest.

2. That, concurrently with consolidation in applicant's Santa Barbara office of said service, public convenience and necessity will no longer require applicant to maintain its offices at Ventura and Oxnard.

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 Ventura and Oxnard 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. 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.

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.

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 Santa Barbara office, as proposed in the application filed herein, to discontinue its offices at Ventura and Oxnard, subject to the following conditions:

- (a) Within ninety days after the effective date hereof, and 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 ninety 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 ninety 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. Applicant is authorized to establish, on not less than ten 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.

5. In all other respects Application No. 42504 is denied.

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

Dated at San Francisco, California, this 15th day of November, 1960.

Crell D. Fox  
President  
John E. Mitchell  
Mark A. Dooly  
E. Lynn Fox  
Theodore Jensen  
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. 61055, in Application No. 42504.

BETWEEN the following points:

Santa Barbara, Montecito, Summerland, Carpinteria, Ventura, Montalvo, Oxnard, Port Hueneme, Point Mugu, and Oxnard Air Force Base.

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

Issued by California Public Utilities Commission.

Decision No. 61055, Application No. 42504.

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.

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