

ORIGINAL

Decision No. 61204

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 ship-)
ments by motor trucks from Oceanside)
to termini in the Oceanside Area;)
(b) to close its offices now serving)
said termini; and (c) to change the)
waybilling of shipments from said)
offices to the Oceanside office,)
thereby increasing certain intrastate)
charges.)

Application No. 42715

Newlin, Tackabury & Johnson, by Hudson B. Cox,
for applicant.

Roger Ramsey, for United Parcel Service, pro-
testant.

Floyd F. Cravens, for Bill Jack Scientific
Instrument Company; Sam Giambrone, in propria
persona; Vernon L. Gough, for Brotherhood of
Railway Clerks; E. A. McMillan, for State
Legislative Committee, Brotherhood of Railway
Clerks, interested parties.

Lloyd C. Young for the Commission staff.

O P I N I O N

Railway Express Agency, Incorporated, proposes to consoli-
date its express operations in the Oceanside area by providing col-
lection and delivery service by motor trucks directly between
Oceanside and 10 other communities in said area. Applicant also
plans to make Oceanside 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 at Vista, Escondido, Encinitas and
Del Mar.

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 four offices to Oceanside.

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 Oceanside, Camp Pendleton, Carlsbad, Cardiff, Del Mar, Encinitas, Escondido, Leucadia, Rancho Santa Fe, Solana Beach and Vista.

Public hearing of the application was held before Examiner Carter R. Bishop at Oceanside on October 20 and 21, 1960.

Evidence was presented on behalf of applicant by its regional vice president, the superintendent of its Southern California, Arizona, New Mexico Division, and one of its supervisors, and by eight shipper witnesses. 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, representatives of an employees' organization, and a transportation engineer from the Commission 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.¹

In the area embraced by this application, collection and delivery service is provided by the Agency at Oceanside, Camp

¹ 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.

Pendleton and Escondido. Under the proposal herein it would establish such service at the eight other points named in numbered paragraph 3, above,² and would enlarge the area within which such service is now provided at Escondido. Under the present method of operation patrons who are not located within existing collection and delivery areas must go to one of the Agency's offices to tender or receive express shipments. The nearest of these may be several miles distant.

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 Oceanside of area operations will have the effect of eliminating many of the handlings and will speed up the dispatch of shipments.

An essential part of the consolidation plan is applicant's offer to provide toll-free telephone service to its Oceanside office for customers located in the area involved herein but outside the local telephone calling area of Oceanside. This arrangement will enable such patrons to request pickup service and to transact other business without having to pay a toll charge.

According to the record, the proposal to make Oceanside the waybilling point from all points proposed to be served from that office will, except in one instance, result either in no change in rates or in reductions. In the case of shipments moving between Del Mar and San Diego there will be a slight increase.

² At the hearing the application was amended by revising the proposed collection and delivery limits at Vista to include the premises of a shipper not originally embraced by said proposal.

There will be no reduction in employment, the superintendent stated, if the proposed consolidation of offices is accomplished. Applicant's employees at Del Mar, Encinitas and Vista, are joint commission agents, having as their primary employer the Santa Fe Railway. These persons will continue as agents of that company. At Escondido the Agency employs a full-time commission agent.³ He may follow his employment to Oceanside, where additional driver-clerks will be put on, or he may exercise seniority rights he holds in San Diego.

Applicant estimates that the consolidation plan here under consideration will result in net annual savings of over \$5,000 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 five 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. Some of these witnesses were growers and shippers of cut flowers and nursery stock or of chemical-free vegetables; others were representatives of various manufacturing concerns. All of the enterprises to which the shippers' testimony related are located within the consolidation area. The testimony of these witnesses was substantially as follows: all are regular

³ The record indicates that the wife of the Escondido agent works in the Agency office as a part-time clerk. However, she is not an employee of the Agency.

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 these businesses would be enhanced by the proposed extension of store-door and collection service, since none of them now receives such service; the Agency's services will still be essential if the consolidation plan is placed in effect.

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 in the 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 at competitive rates.

Counsel for applicant urged that, while the Agency is called upon only occasionally to handle shipments having both origin and destination within the consolidation area, any highway common carrier certificate issued pursuant to the application herein be so framed as to permit the Agency to transport such local shipment thereunder.⁴

Conclusions

The evidence of record shows that adoption of the proposed consolidation plan as hereinbefore set forth will result in the

⁴ Applicant's superintendent testified that only two such shipments had been handled during the month of September 1960, and that the movements are irregular. The 8 shipper witnesses all testified that their respective concerns made no shipments having both origin and destination within the consolidation area.

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; and (4) 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 Oceanside office of applicant of the service now rendered through the four offices herein proposed to be closed will not be adverse to the public interest.

2. That, concurrently with consolidation in applicant's Oceanside office of said service, public convenience and necessity will no longer require applicant to maintain its offices at Vista, Escondido, Encinitas and Del Mar.

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 Vista, Escondido, Encinitas and Del Mar 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 of public convenience and necessity 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 conditions stated in numbered paragraphs 6 and 7 of the application herein as amended.

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 Oceanside office, as proposed in the application filed herein, to discontinue its offices at Vista, Escondido, Encinitas and Del Mar, 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, as amended.

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 120 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. 42715 is denied.

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

Dated at San Francisco, California, this 24th day of JANUARY, 1961.

[Signature]
President

[Signature]

[Signature]

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 semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers 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. 61404, in Application No. 42715.

Issued by California Public Utilities Commission.

Decision No. 61404, Application No. 42715.

BETWEEN the following points:

Oceanside, Camp Pendleton, Carlsbad, Cardiff, Del Mar, Encinitas, Escondido, Leucadia, Rancho Santa Fe, Solana Beach, and Vista,

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

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Decision No. 61404, Application No. 42715.