

61663

Decision No. \_\_\_\_\_

**ORIGINAL**

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 collection  
and delivery of express shipments by  
motor trucks from Sacramento and  
Stockton to termini in the Sacramento  
and Stockton areas; (b) to close its  
offices now serving said termini; and  
(c) to change the waybilling of ship-  
ments from said offices thereby  
increasing certain intrastate charges.

Application No. 42816

Pillsbury, Madison & Sutro and Eugene M. Prince,  
by Dudley A. Zinke, for applicant.  
Roger Ramsey, for United Parcel Service,  
protestant.  
Eleanor E. Sternberg, for Newcastle Community Club  
and in propria persona; Richard E. Saladana,  
for Civic Interest Committee, Newcastle Commu-  
nity Club; A. I. Laurence, for Brotherhood of  
Railway Clerks; E. A. McMillan, for State  
Legislative Committee, Brotherhood of Railway  
Clerks; interested parties.  
John R. Laurie and E. G. McLane, for the  
Commission staff.

O P I N I O N

Railway Express Agency, Incorporated, proposes to consoli-  
date its express operations in the area lying generally between  
Marysville and Rio Vista, and between Auburn and Winters, hereinafter  
called the "Sacramento Area". It also proposes to consolidate its  
express operations in the area lying generally between Lodi, Manteca  
and Tracy, hereinafter called the "Stockton Area". Said consolida-  
tions would be implemented by providing collection and delivery  
service by motor trucks directly between the Agency's offices at  
Sacramento and Stockton, on the one hand, and various communities in  
the above-mentioned areas, on the other. Additionally, applicant

proposes to make Sacramento and Stockton the waybilling points for all shipments forwarded from or delivered to points in the respective areas.

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

1. To close its offices at Auburn, Davis, Elk Grove, Fair Oaks, Folsom, Lathrop, Lodi, Manteca, Marysville, Rio Vista, Roseville, Thornton, Tracy, Walnut Grove, Winters and Woodland.
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 Sacramento and Stockton.
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 the 38 points listed in Appendix A hereof.

Public hearing of the application was held before Examiner Carter R. Bishop at Sacramento on November 29 and 30, 1960.

Evidence was presented on behalf of applicant by its regional vice president, the superintendent of its Northern California, Nevada and Oregon Division, and by five shipper witnesses. A witness for the Newcastle Community Club testified in support of the proposals. Granting of the application was opposed conditionally by United Parcel Service.<sup>1/</sup> Counsel for that organization, representatives of an employees' organization, of the above-mentioned Club, a transportation engineer and a rate expert from the Commission's staff all participated in the development of the record.

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<sup>1/</sup> At the close of the hearing the representatives of the Brotherhood of Railway Clerks and of its State Legislative Committee changed their appearances from protestants to interested parties.

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 California, several such consolidations have already been accomplished, either as the result of formal proceedings or through the procedure set forth in the Commission's General Order 36-B.

At the present time, applicant provides collection and delivery service in the 29 communities listed in Column 1 of Appendix B hereof. In addition to the areas presently served, the Agency proposes herein to provide such service at the 14 points listed in Column 2 of said Appendix B, and to make extensions in the present service areas of those communities listed in Column 1 that are prefixed with an asterisk.<sup>3/</sup> Six of the offices proposed to be closed are located in communities where no collection or delivery service is now provided by the Agency. These communities would, under the consolidation plan, receive such service.

The testimony of applicant's vice president discloses that there has in recent years been a marked decrease in the number of

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<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.

<sup>3/</sup> Forty-three communities are involved in the consolidation plan herein. Service to only 38 of these is involved in the sought highway common carrier certificate, since the remaining points will be served by an affiliate, Railway Express Agency, Incorporated, of California, as underlying carrier for applicant herein.

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 of area operations in Sacramento and Stockton 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 Sacramento and Stockton 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.<sup>4/</sup>

The proposal to make Sacramento and Stockton the waybilling points for all shipments originating or terminating in the consolidation areas, the record shows, will result in some increases and decreases, mostly minor, in surface express charges. In the majority of instances there will be no change in rates. A substantial increase would be reflected in the first class rate between Winters and Los Angeles, i.e., an increase of \$2.39 per 100 pounds from the present level of \$6.25 to the Sacramento basis of \$8.64. The record shows, however, that the express traffic between Los Angeles and Winters is negligible.

In response to questions by the rate expert, applicant's superintendent indicated that where existing commodity rates from or to points in the consolidation areas, other than Sacramento or Stockton, are lower than the corresponding rates from or to the proposed

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<sup>4/</sup> Under the consolidation plan Lodi, Stockton Municipal Airport, Lathrop, Manteca, Sharpe General Depot-Lathrop, Sharpe General Depot-Tracy Annex, Tracy and Deuel Vocational Institution would be served from Stockton; the remainder of the points involved would be served from Sacramento.

waybilling point involved, such rates would be made applicable from or to said waybilling point, Sacramento or Stockton, so that the rates in question would continue to apply on the traffic for which they were established. This witness also indicated that, if the consolidation plan is approved, applicant will arrange for such changes in the tariffs of its subsidiary, Railway Express Agency, Incorporated, of California, as may be required by the changeover in methods of operation.

With respect to air express traffic, the superintendent testified, transportation charges would be reduced, under the proposal herein, by a minimum of \$2.36 per shipment originating or terminating in 15 of the communities embraced by the consolidation areas.<sup>5/</sup> These communities are not now located within any defined air terminal area; consequently, air express shipments originating or terminating thereat are subject to a surface transportation charge. Under the proposed plan all communities proposed to be served from Sacramento and Stockton will be included in the air terminal areas for those respective cities and the surface charge will be eliminated. Additionally, certain reductions in air express rates from and to Marysville will result under the consolidation plan, by reason of the transfer of that city into the air rate zone in which Sacramento is located. Under the consolidation plan there will be no increases in air express rates.

No express company employees will be laid off, the superintendent stated, if the proposed consolidation of offices is accomplished. No supervisory positions will be eliminated and all nonsupervisory positions in the offices to be consolidated will be

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5/ The communities in question are: Auburn, Davis, Elk Grove, Fair Oaks, Folsom, Lathrop, Lodi, Manteca, Rio Vista, Roseville, Thornton, Tracy, Walnut Grove, Winters and Woodland.

continued in the key offices at Sacramento and Stockton. However, it appears that this latter group of some half dozen employees may well suffer a reduction in compensation in the process. Nine of the offices involved in the consolidation plan are manned by independent contractors whose principal occupation is either that of railroad employee or that of a local merchant. On the closing of the express offices, as sought herein, this latter group would continue to engage in their principal lines of work.

Applicant estimates that the consolidation plan here under consideration will result in net savings of approximately \$25,000 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 two terminals instead of sixteen 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 five 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 included the traffic managers of the State of California and of a department store, respectively, and shippers of gift packages of fresh fruit, of juice extractors and of ladybugs (for aphid control), respectively. According to the record, shipments for the State are made from and to numerous departments and institutions of the State located at various points in the two consolidation areas; the department store has outlets in Sacramento and vicinity; the establishments of the last three specified shippers

are at Newcastle, Lodi and Yuba City, respectively. The testimony of the five witnesses may be summarized as follows: all are regular patrons of the Agency; applicant's services are essential, notably because of the fast service and the specialized handling involved; 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; 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 United pointed out that the evidence of record disclosed averages of only five shipments per day between all points in the Sacramento Area and of one shipment in every three days between points in the Stockton Area. Such low frequency, in his opinion, did not justify the issuance of a highway common carrier certificate for local movements within the consolidation areas. He further expressed the opinion that, in the event the condition he proposed were to be attached to the sought common carrier certificate, applicant could continue to handle the relatively small number of local shipments under

its radial highway common carrier permit.<sup>6/</sup>

Counsel for applicant expressed the view that the evidence was sufficient to justify the issuance of an unrestricted certificate. He pointed to shipper testimony to the effect that an increase in the number of local express shipments is expected after the consolidation plan, if approved, is established. The record, he stated, shows that the users of the local service, while not large in number, want the service to continue.<sup>7/</sup>

The express employees' organization, speaking through one of its representatives, expressed concern over the reduction in compensation which it appears will be experienced by salaried employees if the office consolidation is approved. According to his calculations, 35 percent of the total savings in operating expenses anticipated under the plan would accrue from such reductions in employee compensation. He urged, as in prior proceedings in this series, that if the application is granted applicant be required to offer certain specified protection to any employees adversely affected by the plan.

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<sup>6/</sup> It appears that the imposition of the restriction proposed by United would not, in most instances, affect Agency shipments moving from a point in the Sacramento Area to a point in the Stockton Area, or vice versa, since the Agency expects most of such shipments to move between its Sacramento and Stockton terminals over the line of an underlying carrier.

<sup>7/</sup> Counsel for applicant urged, also, that if the Commission should conclude to attach to any certificate granted herein a condition such as proposed by United, the findings should indicate that no certificate is required of applicant to handle the volume of traffic which it now handles within the consolidation areas.



### 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; (6) Saturday, Sunday and holiday collection and delivery service will be provided, on request, for all air express shipments and on surface express shipments of livestock and perishables; and (7) the proposed consolidation of offices will result in substantial savings in operating costs.

While it appears certain that, as a result of the office consolidation, some employees will experience a reduction in compensation, this disadvantage must be weighed against the anticipated improvement in service to the Agency's patrons, and the urgent need for strengthening of the Agency's financial position, if it is to survive.

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 Sacramento and Stockton offices of applicant of the service now rendered through the 16 offices herein proposed to be closed will not be adverse to the public interest.

2. That, concurrently with consolidation in applicant's Sacramento and Stockton offices of said service, public convenience and necessity will no longer require applicant to maintain any of said 16 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 16 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 (relating to routes of travel and to commodity exclusions, respectively) 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 upon 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 Sacramento and Stockton offices, as proposed in the application filed herein, to discontinue its offices at Auburn, Davis, Elk Grove, Fair Oaks, Folsom, Lathrop, Lodi, Manteca, Marysville, Rio Vista, Roseville, Thornton, Tracy, Walnut Grove, Winters and Woodland, 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 to be made 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 C, 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.

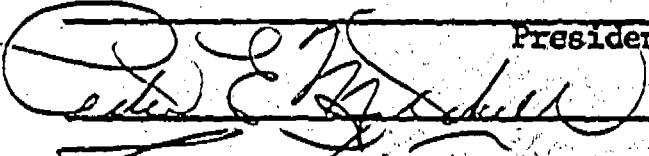

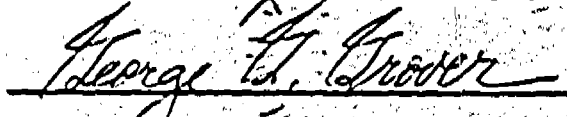

4. Applicant is authorized to establish, on not less than thirty days' notice to the Commission and to the public, and concurrently with the closing of offices and the institution of highway common carrier service, as authorized in paragraphs 1 and 2 hereof,

the increased rates and charges proposed in the application filed in this proceeding.

5. In all other respects Application No. 42316 is denied.

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

Dated at San Francisco, California, this  
14th day of March, 1961.

 President  
  
  
 Commissioners

Commissioner Everett C. McKeage being  
necessarily absent, did not participate  
in the disposition of this proceeding.

APPENDIX A

Points Sought to be Served Under the  
Proposed Highway Common Carrier Certificate

Marysville  
Yuba City  
Beale Air Force Base  
Auburn  
Newcastle  
Penryn  
Loomis  
Rocklin  
Roseville  
Folsom  
Nimbus  
Fair Oaks  
Mather Air Force Base  
Citrus Heights  
North Highlands  
Rancho Cordova  
McClellan Air Force Base  
Carmichael  
Sacramento  
West Sacramento  
Arcade  
Arden  
Broderick  
Davis  
University of California at Davis  
Woodland  
Winters  
Yuba County Airport  
Elk Grove  
Lodi  
Stockton  
Stockton Municipal Airport  
Lathrop  
Sharpe General Depot-Lathrop  
Manteca  
Sharpe General Depot-Tracy Annex  
Tracy  
Deuel Vocational Institution

APPENDIX B

Column 1 - Points at which Collection and  
Delivery Service is now Provided  
Column 2 - Points at which it is Proposed to  
Establish Collection and Delivery Service

<u>Column 1</u>	<u>Column 2</u>
Arcade	Citrus Heights
Arden	Deuel Vocational Institution
* Auburn	Elk Grove
Beale Air Force Base	Fair Oaks
Broderick	Folsom
Carmichael	Isleton
* Davis	Lathrop
* Lodi	Loomis
Manteca	Newcastle
* Marysville	Penryn
Mather Air Force Base	Rocklin
McClellan Air Force Base	Thornton
Nimbus	Winters
North Highlands	Yuba County Airport
North Sacramento	
Rancho Cordova	
Kio Vista	
* Roseville	
Sacramento	
Sharpe General Depot-Lathrop	
Sharpe General Depot-	
Tracy Annex	
Stockton	
Stockton Municipal Airport	
* Tracy	
University of California	
at Davis	
Walnut Grove	
West Sacramento	
* Woodland	
* Yuba City	

\* Service proposed to be extended  
beyond present limits.

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. 51663, in Application No. 42816.

Issued by California Public Utilities Commission.

Decision No. 51663, Application No. 42816.



BETWEEN the following points:

Arcade, Arden, Auburn, Beale Air Force Base, Broderick, Carmichael, Citrus Heights, Davis, Deuel Vocational Institution, Elk Grove, Fair Oaks, Folsom, Lathrop, Lodi, Loomis, Manteca, Marysville, Mather Air Force Base, McClellan Air Force Base, Newcastle, Nimbus, North Highlands, Penryn, Rancho Cordova, Rocklin, Roseville, Sacramento, Sharpe General Depot-Lathrop, Sharpe General Depot-Tracy Annex, Stockton, Stockton Municipal Airport, Tracy, University of California at Davis, West Sacramento, Winters, Woodland, Yuba City, and Yuba County Airport.

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 C

Issued by California Public Utilities Commission.

Decision No. 61663, Application No. 42816.