

**ORIGINAL**

Decision No. 61729

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of RAILWAY EXPRESS AGENCY, )  
INCORPORATED, for authority (a) to )  
provide collection and delivery of )  
express shipments by motor trucks )  
from Indio and Calexico to termini in )  
the Coachella and Imperial Areas; )  
(b) to close its offices now serving )  
said termini; and (c) to change the )  
waybillings of shipments from said )  
offices, thereby increasing certain )  
intrastate charges. )

Application No. 42878  
Amended

Newlin, Tackabury and Johnston, by George W. Tackabury,  
for applicant.  
Roger L. Ramsey, for United Parcel Service; Joseph Y.  
Henson, for citizens of Palm Desert, protestants.  
Jerome J. Bunker, for City of Palm Springs; J. M.  
McFadden, for City of Palm Springs and Hotel and  
Apartment Association of Palm Springs; Don McNeilly,  
for Palm Desert Chamber of Commerce; Vernon L. Gough,  
for Brotherhood of Railway Clerks; E. A. McMillan,  
for California State Legislative Committee,  
Brotherhood of Railway Clerks, interested parties.  
Leonard Diamond and 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 area lying generally between  
Indio and Palm Springs, hereinafter designated the "Coachella Area",  
and in the area lying generally between Brawley, Holtville and  
Calexico, hereinafter designated the "Imperial Area." Said consoli-  
dation would be accomplished by furnishing collection and delivery  
service by motor trucks directly between Indio and points in the  
Coachella Area, and between Calexico and points in the Imperial  
Area. Indio would be the waybilling point for the Coachella Area  
and Calexico the waybilling point for the Imperial Area.

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

1. To close its offices at Palm Springs, Palm Desert, El Centro and Holtville.
2. To operate as a highway common carrier (as defined in Section 213 of the Public Utilities Code) for the transportation of property, exclusive of certain specified articles, between Brawley, Calexico, Cathedral City, El Centro, El Centro Naval Auxiliary Landing Field, El Dorado Country Club, Heber, Holtville, Imperial, Indian Wells, Indio, La Quinta, Meloland, Palm Desert, Palm Springs, Rancho Mirage, Tamarisk Country Club, Thunderbird Ranch Estates, Thunderbird Country Club, all points on State Highway 111 located between Indio and Palm Springs, all points on U. S. Highway 99 located between Calexico and Brawley, and all points on U. S. Highway 80 located between Holtville and N.A.L.F. Road (constituting the access road to El Centro Naval Auxiliary Landing Field).
3. Revocation of its highway common carrier certificate granted by Decision No. 56256 of February 18, 1958 (embracing service between El Centro and Brawley).
4. Authority to establish increased rates to the extent that such will result from the designation of Indio and Calexico as way-billing points for the respective areas.

Public hearing of the application was held before Examiner Carter R. Bishop at Indio on January 17, 18 and 19, 1961. Evidence on behalf of applicant was offered through its regional vice president, the superintendent of its California, Arizona, New Mexico division, its division supervisor, and 12 shipper and civic witnesses.

The instant application is one of a series of proceedings prompted by the Agency's program to consolidate many offices

throughout California. This program, in turn, is part of a nationwide plan adopted by the Agency's management.<sup>1</sup>

Collection and delivery service is presently provided by applicant at Palm Springs, Cathedral City, Indio, Brawley, Imperial, El Centro and Calexico. Under the proposed consolidation plan applicant would also provide such service at all other points named in numbered paragraph 2 above.<sup>2</sup> Additionally, the present collection and delivery areas of Cathedral City and Imperial would be enlarged. Among those communities which presently have no collection and delivery service are two at which the Agency proposes to close its offices, namely, Palm Desert and Holtville. Under the Agency's proposal the residents of those communities would be accorded such service concurrently with the closing of the offices.

The testimony of applicant's vice president discloses that there has been a marked decrease in the number of passenger trains operating in California on which applicant's traffic can be carried. The reduction has been most pronounced in local or short-haul service, and in service to smaller communities. This situation has resulted in increased handlings and delays due to long layovers while shipments are in transit. The superintendent pointed out that the proposed consolidation in Indio and Calexico of area operations will have the effect of eliminating many of the handlings and will speed up the dispatch of shipments.

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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.

2 It is proposed to serve Brawley, El Centro, El Centro Naval Auxiliary Landing Field, Heber, Holtville, Imperial, Meloland and the indicated points on U. S. Highways 80 and 99 from Calexico. All other points named in numbered paragraph 2 would be served from Indio.

An essential part of the consolidation plan is applicant's offer to provide toll-free telephone service to its Indio and Calexico offices for customers located in the Coachella and Imperial Areas but who are outside the local telephone calling areas of said cities. 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 Indio and Calexico the waybilling points for all shipments originating or terminating in the respective consolidation areas will result, as to surface shipments, in some minor increases and reductions. In most instances there will be no changes in rates. Air express shipments originating or terminating at some of the points involved will experience a reduction in charges of not less than \$2.36, by reason of the proposed inclusion of said points within the air terminal delivery areas. Commodity rates published from or to points involved herein, the superintendent stated, will be adjusted to provide for uniform application throughout the areas at the lowest present rate levels.

According to the superintendent, there will be no reduction in employment if the proposed consolidation of offices is accomplished. At Palm Desert and Holtville the Agency's services are performed by a merchant commission agent and a joint commission agent, respectively. The former is engaged principally in a business of her own, and the latter has as his primary employer the Holton Interurban Railway. The salaried employees at Palm Springs and El Centro will be transferred to the augmented staffs at Indio and Calexico or to other points served by applicant.

Applicant estimates that the consolidation plan here under consideration will result in net savings of over \$6,000 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 six separate offices, as at present; and the decrease 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 three resort hotels, two country clubs, a shipper of gift packages of dates and citrus fruit, a radio station, and two military bases. The radio station, with two business locations, and the military bases are located in the Imperial Area. The rest of the above-described establishments are in the Coachella Area. The testimony of these witnesses was substantially as follows: all are regular patrons of the Agency; for each establishment applicant's services are essential, notably because of the fast service and specialized handling accorded shipments; all would benefit by the more expeditious service contemplated under the Agency's proposed plan of operation; applicant's value to these establishments would be greatly enhanced by the proposed extension of pickup and delivery service, since all but one do not now receive such service; the Agency's services will still be essential if the consolidation plan is placed in effect.

Granting of the application was urged by the business manager of the Palm Desert Chamber of Commerce. He suggested certain enlargements to the proposed collection and delivery limits of that community. A representative of the City Council of Palm Springs

read into the record a resolution of that body in which it had endorsed the consolidation plan here under consideration. This witness also read into the record a letter of the Hotel and Apartment Association of Palm Springs endorsing the plan.

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. He pointed out that only one of the public witnesses had testified as to any local movement via the Agency within either of the consolidation areas and that applicant's superintendent had found only two or three local shipments per month, and that these moved between the two proposed consolidation areas.<sup>3</sup>

Granting of the relief herein sought was opposed by a resident of Palm Desert, who represented that he spoke for the citizens of that community. It was not made clear by what authority he so appeared. He asserted that Palm Desert is adequately served by the Agency under the existing arrangement, that the community is experiencing rapid growth, and that consequently it is important that the Agency's office there be kept open.

<sup>3</sup> If the restriction requested by United were imposed, applicant could still accept shipments in one of the consolidation areas involved herein for delivery to a consignee in the other area, provided the shipments were transported between Indio and Calexico, the key points, over the line of the Agency's underlying carrier.

Representatives of the Commission's Engineering-Operations Branch and Rate Branch assisted in the development of the record through examination of applicant's witnesses.

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) Saturday, Sunday and holiday collection and delivery service will be provided, on request, for all air express shipments; and (5) 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 Indio and Calexico offices 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 Indio and Calexico offices of said service, public convenience and necessity will no longer require applicant to maintain any of applicant's offices at Palm Springs, Palm Desert, El Centro and Holtville.

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 the consolidation of offices hereinabove authorized.

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 Indio and Calexico



offices, as proposed in the application, as amended, filed herein, to discontinue its offices at Palm Springs, Palm Desert, El Centro and Holtville, subject to the following conditions:

- a. Within one hundred twenty 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 one hundred twenty 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 one hundred twenty 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. The highway common carrier certificate granted by Decision No. 56256, dated February 18, 1958, is hereby revoked.

6. In all other respects Application No. 42878, as amended, is denied.

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

Dated at San Francisco, California, this 28<sup>th</sup> day of MARCH, 1961.

*Ernest P. Rago*  
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President  
*George L. Fox*  
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*George L. Fox*  
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*Fredrick B. Hildebrand*  
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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. 61729 in Application No. 42878.

Issued by California Public Utilities Commission.

Decision No. 61729, Application No. 42878.

BETWEEN the following points:

Brawley, Calexico, Cathedral City, El Centro, El Centro Naval Auxiliary Landing Field, El Dorado Country Club, Heber, Holtville, Imperial, Indian Wells, Indio, La Quinta, Meloland, Palm Desert, Palm Springs, Rancho Mirage, Tamarisk Country Club, Thunderbird Ranch Estates, Thunderbird Country Club, all points on State Highway 111 located between Indio and Palm Springs, all points on U. S. Highway 99 located between Calexico and Brawley, and all points on U. S. Highway 80 located between Holtville and N.A.L.F. Road (constituting the access road to El Centro Naval Auxiliary Landing Field).

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. 61729, Application No. 42878.