

**ORIGINAL**Decision No. 62256

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 Barstow to termini in the Barstow Area; and (b) to close its offices now serving said termini.

Application No. 43186

Newlin, Tackabury & Johnston, by George W. Tackabury, for applicant.  
Roger Ramsey, for United Parcel Service;  
Paul J. Atherton, for Victor Valley Van & Storage Co.; protestants.  
Vincent E. McGuire, for California Interstate Telephone Company; Frank B. Titus, in propria persona and for Victorville Chamber of Commerce; Vernon L. Gough, for Brotherhood of Railway Clerks; E. A. McMillan, for State Legislative Committee, Brotherhood of Railway Clerks; interested parties.  
Leonard R. Diamond and Lloyd C. Young, for the Commission staff.

O P I N I O N

Railway Express Agency proposes to consolidate its express operations in the Barstow-Victorville-Edwards area by providing collection and delivery service by motor trucks directly between Barstow and eight other communities in said area.

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

1. To close its offices at Boron, Edwards and Victorville.
2. 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 Barstow, Boron, Boron Air Force Base, U. S. Borax Chemical Plant, Edwards, Edwards Air Force Base, Victorville, Apple Valley, George Air Force

Base, Oro Grande and Adelanto.

3. To deviate from the long-and-short-haul provisions of the Constitution of the State of California and of the Public Utilities Code to the extent that such may be necessary in view of the Agency's intention to maintain the existing rate structure as a part of its consolidation plan.

Public hearing of the application was held before Examiner Carter R. Bishop at Barstow on March 28 and 29, 1961. With the filing of an amendment to the application on April 12, 1961, the matter was taken under submission.

At the hearing, evidence on behalf of applicant was offered through its regional general manager, the superintendent of its Southern California-Arizona-New Mexico Division, a division supervisor, and by three shipper witnesses.<sup>1/</sup>

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>2/</sup>

Collection and delivery service is presently provided by applicant at Barstow, George Air Force Base, (northwest of Victorville), U. S. Marine Corps Base (easterly of Barstow) and Victorville. Under

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<sup>1/</sup> It was stipulated that three other shipper representatives, had they been present, would have testified as indicated in prepared statements, which counsel for applicant read into the record.

<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.

the proposed consolidation plan applicant would also provide such service at Adelanto, Apple Valley, Boron, Boron Air Force Base, Edwards, Edwards Air Force Base, Oro Grande, and U. S. Borax Chemical Plant (near Boron). Additionally, the present collection and delivery limits of Victorville would be enlarged.

The testimony of applicant's general manager 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 Barstow 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 Barstow office for customers located in the consolidation area but who are outside the local telephone calling areas of said city. This arrangement will enable such patrons to request pickup service and to transact other business without having to pay a toll charge.

The Agency proposes to continue to publish rates specifically from and to the communities where the offices proposed herein to be closed are located. As a consequence there will be no change in rates and no change in the waybilling of shipments from and to these points.<sup>3/</sup>

According to the superintendent there will be no reduction in employment if the application is granted. All three offices sought

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<sup>3/</sup>Under the proposal herein the involved communities which are nearest Barstow, Boron, Edwards and Victorville, as the case may be, will, by the Agency's tariffs, be included in the collection and delivery limits of said nearest point.

to be closed are operated by joint commission agents. Their principal employment is in the capacity of agent for the Sante Fe Railway at their respective locations. They will continue as such after the express offices are closed. The party whom applicant now employs for collection and delivery work at Victorville is an independent contractor with his own business. The superintendent further testified that, as a part of the consolidation plan, two full-time drivers will be added to the Agency's force at Barstow.

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 one terminal instead of four 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 aircraft and electronics manufacturers (whose establishments are located at or near military bases in the consolidation area), cement manufacturing companies, and a mineral products company. The testimony of these witnesses was substantially as follows: All are patrons of the Agency; for each establishment applicant's services are essential; all would greatly benefit by the proposed collection and delivery service, which none of them now receive; the value of the Agency's service would also be increased by the more expeditious handling contemplated under the

proposed consolidation plan.

Support for the plan, as it relates to service from and to Edwards Air Force Base, was also given by the Military Traffic Management Agency on behalf of the United States Department of Defense. In a telegram from its Washington D. C. headquarters the executive director of said Agency pointed out the advantages of improved service which will result from the establishment of collection and delivery service at the Base, and of the accelerated dispatch of shipments contemplated by the consolidation plan. The record discloses that there is a heavy movement of express traffic from and to the Base, all of which is now transported by Air Force personnel between applicant's Edwards office and the Base.

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 the number of express shipments moving locally within the consolidation area, as evidenced by the record, is inconse-<sup>4/</sup>quential.

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<sup>4/</sup>The owner of Victor Van & Storage Company, applicant's contract drayman in Victorville, testified in opposition to the proposed consolidation plan. He presented a statement, signed by representatives of eight Victorville business firms, in which the view was expressed that applicant's service under the proposal herein would not be as efficient and satisfactory as under the existing arrangement. Before the hearing was terminated the said witness withdrew his protest subject to the condition that applicant's survey show that it can better serve the involved areas under the consolidation plan; applicant's survey indicated that it can.

Two representatives of employees' organizations expressed the view, in closing statements, that adoption of the plan here under consideration would be in the public interest.

Counsel for United Parcel Service and representatives of the Commission's Transportation Division 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) 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 hereby find as follows:

1. That consolidation in the Barstow office of applicant of the service now rendered through the three offices herein proposed to be closed will not be adverse to the public interest.

2. That, concurrently with consolidation of said service in applicant's Barstow office, public convenience and necessity will no longer require applicant to maintain its offices at Boron, Edwards and Victorville.

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 placed in effect concurrently with the consolidation of offices hereinabove authorized.

4. 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 paragraph numbered 6 of said application, as amended, and that said certificate should be subject to the conditions stated in paragraphs numbered 7 and 8 of said application, as amended, (relating to routes of travel and to commodity exclusions, respectively).

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

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 Barstow office,

as proposed in Application No. 43186, as amended, to discontinue its offices at Boron, Edwards and Victorville, 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, in writing, notify this Commission 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-B. 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-B 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. In all other respects Application No. 43186, as amended, is denied.

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

Dated at San Francisco, California, this 11th day of July, 1961.

[Signature]  
President  
[Signature]  
[Signature]  
George C. Hoover  
[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 protection from heat by the use of ice (either water or solidified carbon-dioxide) or by mechanical refrigeration.
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. \_\_\_\_\_, in Application No. 43186.
8. Logs.

BETWEEN the following points:

Barstow, Boron, Boron Air Force Base, U. S. Borax Chemical Plant (near Boron), Edwards, Edwards Air Force Base, Victorville, Apple Valley, George Air Force Base, Oro Grande and Adelanto.

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VIA any and all convenient streets and highways between said points, including operation via the following regular and alternate routes:

Regular Route:

Beginning at the Santa Fe Railroad Depot in Barstow, California via U.S. Highway 91 to its junction with U.S. Highway 466; west of U.S. Highway 466 to the intersection of U.S. Highway 395; north on U.S. Highway 395 to the access road to Boron Air Force Base; west on access road to the entrance of Boron Air Force Base; return same route to U.S. Highway 466; continuing west on U.S. Highway 466 to Boron Ave. in Boron, California; north on Boron Ave. to Suckow Rd.; west on Suckow Rd. to the U.S. Borax & Chemical Plant; continuing west on Suckow Rd. to Borax Rd.; south on Borax Rd. to U.S. Highway 466; west on U.S. Highway 466 to Rosamond Blvd. (Edwards, California); south on Rosamond to the entrance of Edwards Air Force Base Military Reservation; return same route to U.S. Highway 466; east on U.S. Highways 466 and 91 to point of beginning.

Beginning at the Santa Fe Railroad Depot in Barstow, California, via U.S. Highways 91 and 66; southwest on U.S. Highways 91 and 66 to Victorville, California; thence east and southeast on State Highway 18 to Central Rd. in Apple Valley; return same route to Victorville; via alternate U.S. Highways 91 and 66 northwest to Oro Grande, California; return same route to Air Base Rd.; west on Air Base Rd. to the entrance of George Air Force Base; continuing west on Air Base Rd. to the intersection of U.S. Highway 395; north on U.S. Highway 395 to Adelanto, California; return via U.S. Highway 395, Air Base Rd., and alternate U.S. Highways 91 and 66 to Victorville; northeast on U.S. Highways 91 and 66 to point of beginning.

Alternate Route:

From the junction of U.S. Highways 395 and 466, via U.S. Highway 395 to Adelanto, California.

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,

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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 line-haul truck transportation.

End of Appendix A

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