

ORIGINAL

62458

Decision No. _____

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 Santa Rosa to termini in the)
 Santa Rosa area; (b) to close its)
 offices now serving said termini;)
 and (c) to change the waybilling of)
 shipments from said offices thereby)
 increasing certain intrastate charges.)

Application No. 43461

Pillsbury, Madison & Sutro, Eugene M. Price and
Dudley A. Zinke, for applicant.

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

Robert H. Brown, for Sonoma Valley Chamber of
 Commerce; V. T. Hitchcock, for County of
 Sonoma; E. A. McMillan and F. P. Wilson, for
 Brotherhood of Railway Clerks, interested
 parties.

Henry E. Frank and E. G. McLane, for the Commission
 staff.

O P I N I O N

Railway Express Agency proposes to consolidate its express operations in the area extending generally from Healdsburg, on the north, to Petaluma and Sonoma, on the south, by providing collection and delivery service by motor trucks directly between Santa Rosa and 11 communities in said area. Applicant proposes also to make Santa Rosa 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 Healdsburg, Petaluma, Sebastopol and Sonoma.

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 Agua Caliente, Boyes Hot Springs, Eldridge, El Verano, Feters Hot Springs, Healdsburg, Petaluma, Santa Rosa, Sebastopol, Sonoma, Sonoma County Airport and Verano.¹

3. To establish increased rates and charges to the extent that such will result from the proposed transfer of waybilling of shipments from Healdsburg, Petaluma, Sebastopol and Sonoma to Santa Rosa.

Public hearing of the application was held before Examiner Carter R. Bishop at Santa Rosa on July 11 and 12, 1961. Evidence on behalf of applicant was offered through its regional general manager, the superintendent of its Northern California, Nevada and Oregon Division, and five shipper witnesses. Granting of the application was conditionally opposed by United Parcel Service. Counsel for that organization, representatives of an employees' organization and members of the Commission's Transportation Division staff participated in the development of the record through examination of applicant's 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

¹ All points involved herein are located in Sonoma County.

adopted by the management in an effort to place the company's operations on a sound basis and to assure its continued existence as an essential transportation agency.²

Collection and delivery service is presently provided by applicant at Healdsburg, Petaluma, Sebastopol, Sonoma, Santa Rosa and Sonoma County Airport. Under the proposed consolidation plan applicant would also provide such service at Agua Caliente, Boyes Hot Springs, Eldridge, El Verano, Feters Hot Springs and Verano. Additionally, the present collection and delivery areas of Healdsburg, Petaluma and Sonoma 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 Santa Rosa area operations will have the effect of eliminating many of the handlings and will speed up the dispatch of shipments.³

2 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.

3 The record discloses that line-haul service from and to all of the Agency's offices involved herein is performed by certain highway carriers, operating under contract between said offices and rail terminals in the San Francisco Bay Area or elsewhere. Under the proposal herein line-haul movement between Santa Rosa and said terminals would still be accomplished by vehicles of Pacific Motor Trucking Company.

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

The record discloses that the proposal to make Santa Rosa the waybilling point for all shipments originating or terminating in the consolidation area will result, as to surface express shipments, in some minor increases and reductions. In most instances, there will be no changes in rates. Air express shipments from or to communities now served by the Agency's Healdsburg, Petaluma, Sebastopol and Sonoma offices will experience a reduction in charges of not less than \$2.56, by reason of the proposed inclusion of said points within the Santa Rosa air terminal delivery area.

No Agency employees, the superintendent testified, will lose their positions with the company if the proposed consolidation of offices is accomplished. The exclusive commission agent at Healdsburg and the agent-driver at Petaluma will be transferred to Santa Rosa as clerk-drivers. At Sebastopol and Sonoma the Agency's services are performed, under contract, by so-called merchant commission agents, who are principally engaged in businesses of their own. If the application herein is granted, these latter persons will continue in their principal occupations.⁴

⁴ One of these merchant commission agents was, at the time of hearing, in the process of making a change in his primary business connection. The Brotherhood representatives contend that said agent is an employee of applicant; it is the position of applicant that such is not the case. The superintendent pointed out that merchant commission agents are not carried on applicant's seniority rosters.

Applicant estimates that the consolidation plan here under consideration will result in net savings of \$5,500 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 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 here in issue, as proposed to be performed under the sought highway common carrier certificate. These witnesses severally represented two department stores, a furnace manufacturing company, a baby chick hatchery and a wholesale and retail magazine dealer. All of these concerns are located in the proposed consolidation area. The testimony of the shipper 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 the one concern in question which does not now enjoy store door pickup and delivery service of express shipments will be enhanced if such service is accorded it.

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 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 none of the five shippers who testified make any local shipments by express moving wholly within the consolidation area.⁵

The evidence of record shows, and we hereby find, 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 charges on air express shipments to and from Healdsburg, Petaluma, Sebastopol and Sonoma will be reduced not less than \$2.56 per shipment; (5) the proposed consolidation of offices will result in substantial savings in operating costs.

⁵ Applicant's superintendent testified that a check of its records for a recent 6-month period had disclosed only one shipment having both origin and destination within the consolidation area.

Based upon careful consideration of all the evidence and argument of record, we hereby further find as follows:

1. Consolidation, in applicant's Santa Rosa office, of the service now rendered through the four offices herein proposed to be closed will not be adverse to the public interest.

2. Concurrently with consolidation of said service in applicant's Santa Rosa office, public convenience and necessity will no longer require applicant to maintain its offices at Healdsburg, Petaluma, Sebastopol and Sonoma.

3. Extension of the pickup and delivery limits, as proposed in the application herein, is in the public interest and should be placed in effect concurrently with such consolidation of offices.

4. The increases in rates and charges proposed in said application are justified.

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

6. 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 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 Santa Rosa office, as proposed in Application No. 43461, to discontinue its offices at Healdsburg, Petaluma, Sebastopol and Sonoma, 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. 43461 is denied.
The effective date of this order shall be twenty days
after the date hereof.

Dated at San Francisco, California, this 22nd
day of August, 1961.

Charles W. Bagley
President
W. J. Stachurski
E. L. Fox
George G. Grover
Fredrick B. Holbrook
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 refrigerator 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. 62458 in Application No. 43461.
8. Logs.

Issued by California Public Utilities Commission.

Decision No. 62458, Application No. 43461.

BETWEEN the following points:

Agua Caliente, Boyes Hot Springs, Eldridge, El
Verano, Feters Hot Springs, Healdsburg, Petaluma
Santa Rosa, Sebastopol, Sonoma, Sonoma County
Airport and Verano.

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 line-haul truck transportation.

End of Appendix A

Issued by California Public Utilities Commission.

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