

ORIGINALDecision No. 62751

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 operated from Santa Ana to termini in the Orange County Area; (b) to close its offices now serving said termini; and (c) to change the waybilling of shipments from said offices to the Santa Ana office, thereby increasing certain intrastate charges.

Application No. 43602

George W. Tackabury, for applicant.
Roger L. Ramsey, for United Parcel Service, protestant.
James C. Casper, for City of Garden Grove; E. A. McMillan, for State Legislative Committee, Brotherhood of Railway & Steamship Clerks, Freight Handlers, Express and Station Employees; Vernon L. Gough, for Brotherhood of Railway Clerks; interested parties.
Lloyd Young and Robert Shoda, for the Commission staff.

O P I N I O N

Railway Express Agency, Incorporated, proposes to consolidate its express operations in the area extending generally from La Mirada and Brea, on the north, to Newport Beach and South Laguna, on the south.^{1/} The consolidation would be effected by providing collection and delivery service by motor trucks directly between Santa Ana and 18 communities in said area. The Agency also proposes to make Santa Ana the waybilling point for all points proposed to be served from that office.

^{1/} All of the communities involved, except one, are located in Orange County. La Mirada is in Los Angeles County.

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

1. To close its offices at Anaheim, Costa Mesa, Fullerton, Garden Grove, Irvine, Laguna Beach and Orange.
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 seven offices to Santa Ana.
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 Anaheim, Atwood, Brea, Buena Park, Costa Mesa, El Toro Air Station, Fullerton, Garden Grove, Irvine, Laguna Beach, La Mirada, Newport Beach, Olive, Orange, Santa Ana, South Laguna, Stanton, Tustin and Westminster.

Public hearing of the application was held before Examiner Carter R. Bishop at Santa Ana on August 30 and 31, 1961. Following the filing of an amendment to the application on September 7, 1961, the matter was taken under submission.

Evidence on behalf of applicant was offered through its regional general manager, the superintendent of its Southern California-Arizona-New Mexico Division, its division supervisor, and six 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 assisted 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 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 Anaheim, Brea, Buena Park, Costa Mesa, El Toro Air Station, Fullerton, Garden Grove, Laguna Beach, La Mirada, Newport Beach, Orange, Santa Ana, Tustin and Westminster. Under the proposed consolidation plan applicant would also provide such service at Atwood, Irvine, Olive, South Laguna and Stanton. Additionally, the present collection and delivery areas of Anaheim, Brea, Buena Park, Costa Mesa, Fullerton, Garden Grove, Newport Beach, Orange, Santa Ana and Westminster 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

^{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.

the proposed consolidation in Santa Ana 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 Santa Ana 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 services and to transact other business without having to pay a toll charge.

The proposal to make Santa Ana 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 charges. In most instances, however, there will be no changes in rates. Air express shipments from or to many points in the consolidation area will experience a reduction in charges by reason of the proposed inclusion of all consolidation points within the Santa Ana air terminal delivery area, and the consequent elimination of the present surface transportation charge between the airport and the affected points.

There will be no reduction in employment, the superintendent testified, if the proposed consolidation plan is placed in effect. The salaried agents at Anaheim and Costa Mesa will be offered similar positions outside the area, or they may exercise their seniority rights within the area. All classified positions at the two above-mentioned points will be transferred to Santa Ana. The present force of eight employees at that point will be increased to a total

of 20, or possibly 21 employees.^{3/} Applicant's agents at Orange and Irvine are joint commission agents, whose primary duties are with the Santa Fe Railway. The agents at Fullerton, Garden Grove and Laguna Beach are merchant commission agents, whose principal work is in the conduct of their own businesses. If the application herein is granted, each of these five agents will continue in his principal occupation.

Applicant estimates that the consolidation plan here under consideration will result in net savings of \$11,500 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 eight 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 manufacturers of electronic equipment, a processor and gift packer of jams and jellies, a packer of gift boxes of fruits, nuts, jams and jellies, and two manufacturers of tubular fibreglass products and of controls for processing industries. All of these concerns are located in the

^{3/} Under the proposal herein, the record discloses, a highway vehicle run which the Agency operates between Los Angeles and Anaheim would be discontinued. The driver in that run would exercise his seniority rights in obtaining another position on his roster.

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 pick-up and delivery service of express shipments will be enhanced if such service is accorded it.^{4/}

As in the earlier proceedings in this series, United Parcel Service did 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. Counsel for United was of the opinion that the record in the instant proceeding did not support a need for service under an unrestricted certificate.^{5/}

No one appeared in opposition to granting of the application. The aforementioned employees' organization, speaking through one of its representatives, favored the proposed consolidation plan.

^{4/} The parties stipulated with counsel for applicant that two other witnesses, representing manufacturers of valves and of structural adhesives, laminating materials and moulding compounds, respectively, had they been present, would have testified to this same general effect.

^{5/} The Agency's superintendent testified that the company desired to furnish in its own vehicles, service locally between points in the consolidation area. According to the record, however, the volume of such local shipments is negligible.

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 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 further find as follows:

1. Consolidation, in applicant's Santa Ana office, of the service now rendered through the seven 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 Ana office, public convenience and necessity will no longer require applicant to maintain its offices at Anaheim, Costa Mesa, Fullerton, Garden Grove, Irvine, Laguna Beach and Orange.

3. 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 such consolidation of offices.

4. The increases in rates and charges proposed in said application, as amended, 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, as amended, and 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/}

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, 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.

^{6/} As hereinbefore stated, applicant now performs service as a highway common carrier between Los Angeles and Anaheim, which service it plans to discontinue upon inauguration of the consolidation plan here in issue. Said service is rendered under a certificate of public convenience and necessity granted by Decision No. 53363, dated January 16, 1956. Before discontinuance of the service in question applicant will, of course, be required to obtain cancellation of said certificate, upon a showing that the service in question is no longer required.

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 Ana office, as proposed in Application No. 43602, as amended, to discontinue its offices at Anaheim, Costa Mesa, Fullerton, Garden Grove, Irvine, Laguna Beach and Orange, 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. 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, as amended, filed in this proceeding.

5. In all other respects Application No. 43602, as amended, is denied.

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

Dated at San Francisco, California, this 31st day of October, 1961.

W. W. Page
President

W. R. Mitchell

E. L. Fox

George H. Grover

Fredrick B. Hallock
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. 62751 in Application No. 43602.
8. Logs.

Issued by California Public Utilities Commission.

Decision No. 62751, Application No. 43602.

BETWEEN the following points:

Anaheim, Atwood, Brea, Buena Park, Costa Mesa,
El Toro Air Station, Fullerton, Garden Grove,
Irvine, Laguna Beach, La Mirada, Newport Beach,
Olive, Orange, Santa Ana, South Laguna, Stanton,
Tustin and Westminster.

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 transporta-
tion 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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