

Decision No. 63601**ORIGINAL**

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 Fresno and Tulare to termini in the Fresno and Tulare areas; (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. 43897

(For list of appearances see Appendix A)

O P I N I O N

Railway Express Agency proposes to consolidate its express operations in the area in Fresno, Kings and Tulare Counties extending generally from Madera, on the north, to Corcoran, Earlimart and Ducor, on the south. The consolidation would be effected by providing collection and delivery service by motor trucks directly between two key points, Fresno and Tulare, and 37 communities in said area. The northern portion of the above-described area, hereinafter called the "Fresno Area", would be served from Fresno, and the southern portion, hereinafter designated the "Tulare Area", would be served from Tulare. The Agency also proposes to make Fresno and Tulare the waybilling points for all points proposed to be served from those respective offices.

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

1. To close its offices in the 21 communities named in the margin.^{1/}

^{1/} The offices proposed to be closed are located at Corcoran, Cutler, Del Rey, Dinuba, Earlimart, Fowler, Hanford, Ivanhoe, Kingsburg, Lemoore, Lindsay, Madera, Orange Cove, Parlier, Porterville, Reedley, Sanger, Selma, Sultana, Tipton and Visalia.

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 21 offices to Fresno and Tulare.

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 39 points listed in Appendix B hereof.

Public hearing of the application was held before Examiner Carter R. Bishop at Visalia on December 5 and 6, 1961, and at San Francisco on January 15 and 29, February 2, 13, 14, 19 and 20, and March 5, 1962. On the last-named date, oral argument was had, memoranda of points and authorities were filed by the parties and the matter was taken under submission.

Evidence on behalf of applicant was offered through its regional general manager, the superintendent of its Northern California-Nevada-Oregon Division, and nine shipper witnesses. Granting of the application was opposed by United Parcel Service (conditionally), by ten highway common carriers of general freight, by express corporations affiliated with two of the latter carriers, by the Selma District Chamber of Commerce and by two shippers located in the consolidation area. Representatives of an employees' organization and of the Commission's Transportation Division staff assisted in the development of the record.

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/}

At the present time, applicant provides collection and delivery service in the 15 communities listed in Column 1 of Appendix C hereof. In addition to the areas presently served, the Agency proposes to provide such service at the 24 points listed in Column 2 of said Appendix C, and to make extensions in the present service areas of those communities listed in Column 1 that are prefixed with an asterisk. Twelve 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.^{3/}

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.

^{3/} Under the consolidation plan the following points would be served from the Agency's Tulare office: Corcoran, Ducor, Earlimart, Exeter, Farmersville, Goshen, Ivanhoe, Lemon Cove, Lindsay, Pixley, Porterville, Strathmore, Terra Bella, Tipton, Tulare, Visalia, Visalia Airport and Woodlake. The remainder of the points involved would be served from Fresno.

the proposed consolidation in Fresno and Tulare area operations will have the effect of eliminating many of the handlings and will speed up the dispatch of shipments.^{4/}

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

The proposal to make Fresno and Tulare the waybilling points for all shipments originating or terminating in the respective consolidation areas will result in some minor increases and reductions in class rates. By far the greater number of these changes will result in reductions. In many instances there will be no changes in rates. Commodity rates published to and from the points involved herein, the superintendent testified, will be so adjusted as to void increases. In some instances, commodity rates now applicable at particular points will be made applicable from or to all points within the same consolidation area. With respect to air express shipments there will be no change in rates for customers now served by applicant's Fresno and Visalia offices. Air express patrons located at all other points covered by the proposed consolidation, the superintendent stated, will enjoy a reduction of at least \$2.56 per shipment, by reason of the proposed elimination of the present surface transportation charges.

^{4/} With a single exception, the record discloses that line-haul service from and to all of the Agency's offices herein proposed to be closed is performed by certain highway common carriers, operating under contract between said offices and rail terminals at Fresno or elsewhere. Movements from and to Corcoran are via rail as well as via truck.

According to the record, there will be no reduction in employment if the proposed consolidation plan is placed in effect. No supervisory or non-supervisory jobs will be eliminated. Employees who are salaried or exclusive commission agents will be transferred to Fresno or Tulare. At 14 of the offices proposed to be closed the Agency's business is handled by so-called joint commission agents, who are full-time railroad employees, or by merchant commission agents, who have their own businesses and operate the express offices as a sideline. All of the agents in these two groups will, after the consolidation, continue with their principal occupations.

Applicant estimates that the consolidation plan here under consideration will result in net savings of approximately \$17,500 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 two terminals instead of 23 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 by applicant 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 represented various retail and manufacturing establishments located at various points in the consolidation areas. 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 those concerns which do not now enjoy store door collection and delivery service of express shipments will be enhanced if such service is accorded them.

Granting of the application was also favored by the Cities of Parlier, Reedley and Woodlake, by the Chambers of Commerce of Corcoran and Lemoore, and by the employee organizations which appeared in the proceeding.

Closing of the Agency's offices at Selma, Visalia and Porterville was opposed by the Selma District Chamber of Commerce, a Visalia automobile parts dealer and a Porterville district orange grower, respectively.

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 line-haul 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/}

As hereinbefore stated, granting of the application was protested, in part, by ten highway common carriers of general commodities and the affiliated express corporations of two of them. Counsel for these carriers offered evidence through witnesses for

^{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 extremely small.

six of the operators: California Motor Transport Company and its affiliate, California Motor Express, Ltd., Delta Lines, Inc., Fortier Transportation Company, Merchants Express of California and Southern California Freight Lines.

The general commodity highway carriers have no objection to applicant's proposal to close its offices in the consolidation areas. They do object, however, to the granting of the Agency of an unrestricted highway common carrier certificate for general commodities. These protestants maintain that they have adequate equipment to handle any foreseeable increase in the public need for highway common carrier service from, to, and within said areas. The witnesses stated that their companies have equipment operating into and out of the areas at much less than full capacity and assert that they are losing business because too many carriers are being certificated in the areas in question. The application is being opposed, the witnesses testified, because another certificated highway common carrier is not needed in any part of the proposed consolidation areas.

The record shows that the general haulers would have no objection to the issuance to the Agency of a certificate, unrestricted as to prior or subsequent haul, for the transportation of live animals, live fish, explosives and articles of extraordinary value, or for the performance of certain other specialized services which the Agency has long rendered and which said protestants do not hold themselves out to perform.^{6/} Also, these protestants would have no objection to the issuance of a certificate, unrestricted as to commodities or weight of shipments, to which would be attached a condition the same as that proposed by United Parcel Service, except that

^{6/} Examples of these are: armed guard service, hand-to-hand signature service, making bank deposits and returning passbook to customer.

the prior or subsequent haul would be via rail, air or water transportation; the general haulers were unwilling that such prior or subsequent movement be via truck transportation.

Conclusions

The instant application is the thirteenth in a series of proceedings in which Railway Express Agency, Inc., has been engaged in carrying out its plan of consolidating offices into key points in various parts of the State. As previously stated, the California program is a part of the Agency's plan to accomplish that objective on a nationwide scale. And, as previously pointed out in the initial decision of the series, involving consolidation of offices in the so-called East Bay area, namely, Decision No. 59927, the above-mentioned plan is a reasonable step in the modernization of its services and in reduction of its operating expenses. As also stated in that decision, an indispensable factor in the execution of the centralization proposal there involved was the sought highway common carrier certificate.⁷ The same is true here.

United Parcel Service, a so-called parcel carrier,^{8/} appeared in each of the twelve earlier proceedings, and made, in each one, a limited protest substantially the same as that which it made at the hearings in the instant proceeding, as hereinabove set forth. The Commission granted each of the earlier applications

^{7/} In connection therewith the Commission said: "In the absence of that operative right, such arrangements of local transportation, including collection and delivery, as the Agency would be compelled to make, would be too costly and would not accord patrons the full benefit of the service herein proposed."

^{8/} No other highway carriers appeared, either as protestant or interested party, in any of said twelve proceedings.

in the series,^{9/} but in each case attached to the highway common carrier certificate requirements as to through bills of lading and prior or subsequent hauls via rail, water, air or line-haul truck transportation, as urged by United Parcel Service.

Witnesses for the protesting general haulers appeared to have the impression that the Agency is a new carrier in the proposed consolidation areas. Such is not the case. The record clearly shows that applicant has long served the entire area as an express corporation, that it now provides collection and delivery service to many of the communities involved in the proposal, that it has patrons in others where offices are now located, as well as in those without such offices, and that in most of the latter communities it formerly had joint commission offices, which it was forced to relinquish when the railroad stations in which they were located were closed. The consolidation plan under consideration is a means by which the Agency proposes to improve the quality of its performance in an area which it now serves, and thus place itself in a better competitive position in that area. It is clear, also, that to restrict the sought highway common carrier certificate to the extent proposed by the protesting general commodity haulers would unduly hamper the Agency in the rendition of the services which it holds itself out to perform.

The evidence 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)

^{9/} Not included in the above-mentioned twelve earlier consolidation applications is Application No. 43854, involving proposed consolidation of Agency offices in the San Gabriel Valley area. That application was filed prior to the instant application but hearings in it were commenced after those relating to the present proceeding were begun. Granting of Application No. 43854, which is now under submission, is opposed by substantially the same group of general commodity haulers as are protestants in the instant proceeding.

collection and delivery service will be extended to areas where such is not now provided; (3) the elimination of multiple handlings will result in faster service and in fewer loss or damage claims; (4) limitations or restrictions on the handling of certain types of shipments at 13 offices will be eliminated; (5) the charges on air express shipments to and from many communities in the consolidation areas will be reduced by not less than \$2.56 per shipment; (6) the proposed consolidation of offices will result in substantial savings in operating costs.

Based upon careful consideration of the record as a whole, we hereby further find as follows:

1. Consolidation, in applicant's Fresno and Tulare offices, of the service now rendered through the 21 offices herein proposed to be closed will not be adverse to the public interest.

2. Concurrently with consolidation of said service in applicant's Fresno and Tulare offices, public convenience and necessity will no longer require applicant to maintain any of said 21 offices.

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 into 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, subject to the conditions stated in paragraphs numbered 7 and 8 of said application (relating to routes of travel and to commodity exclusions, respectively), and 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 Fresno and Tulare offices, as proposed in Application No. 43897, as amended, to discontinue its offices at Corcoran, Cutler, Del Rey, Dinuba, Earlimart, Fowler, Hanford, Ivanhoe, Kingsburg, Lemoore, Lindsay, Madera, Orange Cove, Parlier, Porterville, Reedley, Sanger, Selma, Sultana, Tipton and Visalia, 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 thirty 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 D 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, applicant shall establish the service herein authorized and file in the Commission's office in triplicate tariffs satisfactory to the Commission, which tariff filings shall be made effective concurrently with the establishment of the service and on not less than thirty days' notice to the Commission and the public. The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

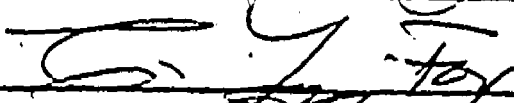
4. Applicant is authorized to establish on not less than thirty days' notice to the Commission and to the public, and concurrently with the closing of offices and the institution of highway common carrier service, as authorized in paragraphs 1 and 2 hereof, the increased rates and charges proposed in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

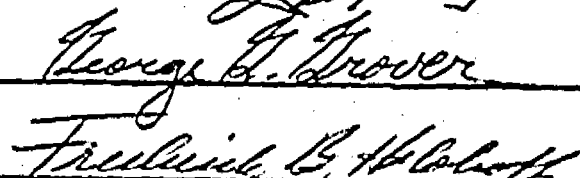
5. In all other respects Application No. 43897, as amended, is denied.

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

Dated at San Francisco, California, this
24th day of APRIL, 1962.



President


George B. Grover


Commissioners

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

APPENDIX A

Appearances

Pillsbury, Madison & Sutro, by Eugene M. Prince and Dudley A. Zinke; George M. Tackabury; for applicant.

Roger L. Ramsey and Jerome M. Sivesind, for United Parcel Service; Graham, James & Rolph, by Boris H. Lakusta, Leo J. Vander Lans, Raymond A. Greene, Jr., and E. Myron Bull, for California Motor Express, Ltd, California Motor Transport Co., Delta Lines, Inc., Di Salvo Trucking, Fortier Transportation Company, Merchants Express of California, Pacific Motor Trucking Company, Shippers Express Company, Southern California Freight Lines, Sterling Transit Company, Valley Express Co., and Valley Motor Lines, Inc.; Erling L. Kloster, for Hugh Gordon, dba Valley Cove Ranch Company; Brent Anderson, for Selma District Chamber of Commerce; protestants.

E. A. McMillan, for California State Legislative Committee, Brotherhood of Railway Clerks; A. I. Lawrence, for Brotherhood of Railway Clerks; interested parties.

E. G. McLane and Arthur F. Burns, for the Commission staff.

APPENDIX B

Points sought to be served under the proposed highway common carrier certificate.

Armona	Goshen	Pixley
Calwa	Hanford	Porterville
Clovis	Ivanhoe	Reedley
Corcoran	Kingsburg	Sanger
Cutler	Lemon Cove	Selma
Del Rey	Lemoore	Strathmore
Dinuba	Lemoore Naval Air Station	Sultana
Ducor	Lindsay	Terra Bella
Earlimart	Madera	Tipton
Exeter	Orange Cove	Tulare
Farmersville	Orosi	Visalia
Fowler	Parlier	Visalia Airport
Fresno	Pinedale	Woodlake

APPENDIX C

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.

Column 1

*Calwa
*Corcoran
*Dinuba
Exeter
*Fresno
*Hanford
*Lindsay
*Madera
*Pinedale
*Porterville
*Reedley
*Selma
*Tulare
*Visalia
Visalia Airport

*Service proposed to be
extended beyond present
limits.

Column 2

Armona
Clovis
Cutler
Del Rey
Ducor
Earlimart
Farmersville
Fowler
Goshen
Ivanhoe
Kingsburg
Lemon Cove
Lemoore
Lemoore Naval
Air Station
Orange Cove
Crosi
Parlier
Pixley
Sanger
Strathmore
Sultana
Terra Bella
Tipton
Woodlake

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. 63801 in Application No. 43897.
3. Logs.

Issued by California Public Utilities Commission.

Decision No. 63801, Application No. 43897.

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Appendix D

RAILWAY EXPRESS AGENCY,
INCORPORATED

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BETWEEN the following points:

Armona, Calwa, Clovis, Corcoran, Cutler,
Del Rey, Dinuba, Ducor, Earlimart, Exeter,
Farmersville, Fowler, Fresno, Goshen, Hanford,
Ivanhoe, Kingsburg, Lemon Cove, Lemoore,
Lemoore Naval Air Station, Lindsay, Madera,
Orange Cove, Orosi, Parlier, Pinedale, Pixley,
Porterville, Reedley, Sanger, Selma, Strathmore,
Sultana, Terra Bella, Tipton, Tulare, Visalia,
Visalia Airport, Woodlake.

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 D

Issued by California Public Utilities Commission.

Decision No. 63501, Application No. 43897.