

ORIGINAL

Decision No. 63914

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CENTURY OIL COMPANY, a corporation,)
 to sell, and K. R. GILBRETH, an)
 individual, to purchase, a petroleum)
 irregular route certificate of public)
 convenience and necessity between all)
 points in the State of California,)
 pursuant to Sections 851-853 of the)
 California Public Utilities Code.)

Application No. 44538

OPINION AND ORDER

Century Oil Company requests authority to sell and transfer and K. R. Gilbreth requests authority to purchase and acquire certain operative rights.

The rights were granted by Decision No. 44466 in Application No. 30844, dated June 27, 1950, and authorize the transportation of petroleum and petroleum products over irregular routes between all points and places in the State of California. The cash consideration for said rights is \$700.

It is alleged that applicant buyer has been engaged in the transportation industry in various capacities for approximately 16 years. As of March 31, 1962, he indicated a net worth in the amount of \$39,750. Applicant buyer will operate twelve units of equipment.

After consideration, the Commission finds and concludes that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary.

Application having been filed and the Commission being informed in the premises,

IT IS ORDERED that:

1. On or before December 1, 1962, Century Oil Company, a corporation, may sell and transfer, and K. R. Gilbreth, an individual, may purchase and acquire, the operative rights referred to in the application.

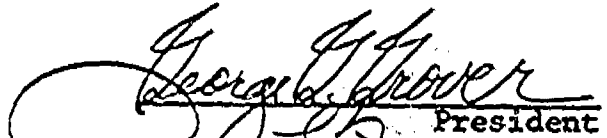
2. Within thirty days after the consummation of the transfer herein authorized, K. R. Gilbreth shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

3. Applicants shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations here involved to show that Century Oil Company has withdrawn or canceled, and K. R. Gilbreth has adopted or established, as his own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. The tariff filings made pursuant to this order shall comply

in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

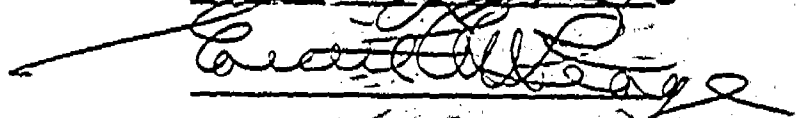
The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 10th day of July, 1962.


President








Commissioners

Representatives of the City of Azusa and of the Azusa Chamber of Commerce made statements urging that an over-the-counter office be continued in Azusa even if the collection and delivery service for that city were to be operated out of Pasadena as applicant proposes. Assertedly, the convenience of such an office is necessary for the continued industrial expansion of the Azusa area.

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.^{9/}

Granting of the application was protested, in part, by 15 highway common carriers of general commodities and the affiliated express corporations of two of them. Counsel for these carriers offered evidence through witnesses for four of the operators: California Cartage Company, Willig Freight Lines, Valley Motor Lines, Inc., and its affiliate, Valley Express Co. Additionally, in accordance with the stipulation hereinbefore mentioned, evidence of record in Application No. 43397, above, adduced through witnesses

^{9/} 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.

for 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, was incorporated by reference into the record herein.

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 to 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.^{10/} 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,

^{10/} Examples of these are: armed guard service, hand-to-hand signature service, making bank deposits and returning passbook to customer.

except that 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.

Granting of the application was supported by the Brotherhood of Railway Clerks.

Representatives of the Commission's Transportation Division staff, as well as various other parties to the proceeding, assisted in the development of the record through examination of applicant's and protestants' witnesses.

Conclusions

The instant application is the fourteenth 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.

The objection of certain protestants to the proposed closing of the Azusa office relate primarily to the alleged loss of convenience which protestants now enjoy, in that they are able to take rush shipments to that office after the express driver has made his regular pickup at their places of business, and in that they will lose the privilege of special pickups which the Azusa agent now provides. The record shows, however, that applicant will be able to provide a flexible service in operating its own trucks out of Pasadena, and that pickups in Azusa will be made as

late as 4:30 p.m. It appears also that if, as requested by protestants, an over-the-counter office were retained at Azusa in connection with applicant's plan to provide collection and delivery service out of Pasadena, the number of shipments brought to the Azusa office by consignors would be much less than at present, since the collection and delivery limits in the Azusa area would be greatly enlarged, so as to include Glendora and other communities adjacent to Azusa. Under present arrangements shippers in said areas have no collection and delivery service; of necessity they use the Azusa office.

If the Azusa office were to be retained as an over-the-counter office, with the balance of the Agency's consolidation plan being put into operation, the Azusa office, which is now a joint commission office, would be a branch of the Pasadena office, and, under the terms of agreement between the Agency and the clerks' union, would be a salaried office. Applicant estimates that the additional expense involved in maintaining Azusa as an over-the-counter office in connection with the proposed consolidation plan would be in the neighborhood of \$10,500 per year. At the same time, the record indicates, there would be no reduction in the amount of additional expense which would be incurred in placing the consolidation plan in effect. Thus, under such an arrangement the estimated savings of \$22,000 per year under the plan as proposed in the application, would be reduced to approximately \$11,500.

Various other objections of the Azusa protestants and that of the San Gabriel protestant appear to have been satisfactorily met by other evidence adduced by applicant. With respect to the problem of those patrons who are located outside of proposed

collection and delivery limits, such as the aforementioned Covina protestant, witnesses for the Agency pointed out that those patrons may make arrangements to have their shipments picked up or delivered at the premises of some person or business located within said limits. This, the record indicates, has often been done under similar circumstances.^{11/}

The protesting general haulers in this proceeding are the same group, with a few additions, that protested the granting of an unrestricted highway common carrier certificate to the Agency in Application No. 43897 (consolidation of operations in the Fresno-Tulare area). By Decision No. 63601, dated April 24, 1962, in said application, the Agency was granted a highway common carrier certificate to which a condition was attached identical with that urged herein by United Parcel Service and adopted in the twelve earlier California consolidation proceedings. That condition was that traffic transported under the certificates should move on a through bill of lading or express receipt, and should receive, in addition to the highway movement for which said certificates were issued, an immediately prior or subsequent movement by rail, water, air or line-haul truck transportation.

The evidence and argument presented by the general commodity highway carriers in the instant proceeding were of the same import as offered by them in Application No. 43897. The appraisal of, and conclusions to be reached with respect to, their showing in Application No. 43854 are, therefore, the same as set forth in Decision No. 63601, above. In the light of the record

^{11/} It is the Agency's practice, the record shows, to extend its collection and delivery limits as the actual and potential traffic makes such extensions economically justifiable.

herein the restriction proposed by United Parcel Service appears justified, rather than any of those to which the protesting general haulers were willing to agree.

The evidence shows, and we hereby find, that adoption of the proposed consolidation plan 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 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) the proposed consolidation of offices will result in substantial savings in operating costs.

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

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

2. Concurrently with consolidation of said service in applicant's Pasadena office, public convenience and necessity will no longer require applicant to maintain any of said five 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. 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.

5. Concurrently with the effective date of said certificate, the highway common carrier certificates granted to applicant by Decision No. 39955 (between Pasadena and Monrovia), and Decision No. 39987 (between Alhambra and El Monte) should be revoked.

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 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 Pasadena

office, as proposed in Application No. 43854, as amended, to discontinue its offices at Alhambra, Azusa, Baldwin Park, Covina and South Monrovia, 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 B, 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. 100-3. 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 100-3, 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.
- (c) The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the establishment of the service herein authorized.
- (d) 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. 20.

4. The highway common carrier certificates granted to Railway Express Agency, Incorporated, by Decision No. 39955, dated February 11, 1947, and Decision No. 39987, dated February 15, 1947, are hereby revoked.

5. In all other respects Application No. 43854, as amended, is denied.

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

Dated at San Francisco, California, this 10th day of July, 1962.

George G. Hoover
President
[Signature]
[Signature]
[Signature]
Commissioners

APPENDIX A

Appearances

Newlin, Tackabury & Johnston, by George W. Tackabury,
for applicant.

George Caswell, for City of Azusa; James M. Judy, for
Azusa Chamber of Commerce; Lowell Kiesel, in propria
persona; Albert A. Bennett, for Fred A. Stewart
Orchid Nursery of San Gabriel; Jerry L. McDaniel,
for Stoner-Mudge Company (Pacific); Gordon C. McKelvy,
for Monrovia Nursery Company; James Woodrow Rose,
for Minneapolis Honeywell Regulator Company; pro-
testants.

Graham, James & Rolph, by Boris Lakusta and Leo J.
Vander Lans, for Blankenship Motors, Boulevard
Transportation Company, California Cartage Company,
California Motor Express, Ltd., California Motor
Transport Co., Constructors Transport Company, Delta
Lines, Inc., Di Salvo Trucking Company, Fortier
Transportation Company, Merchants Express of California,
Pacific Motor Trucking Company, Shippers Express
Company, Southern California Freight Lines, Sterling
Transit Company, Valley Express Co., Valley Motor
Lines, Inc., and Willig Freight Lines; Roger L.
Ramsey, for United Parcel Service; protestants.

Esther Cunningham, for William A. Cunningham; C. D.
Hileman, for Order of Railroad Telegraphers; E. A.
McMillan, for California State Legislative Committee
of Brotherhood of Railway and Steamship Clerks;
Vernon L. Gough, for Brotherhood of Railway Clerks;
Interested parties.

Lloyd Young and Robert Shoda, for the Commission's
staff.

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 (c) 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. 63915, in Application No. 43854.
8. Logs.

Issued by California Public Utilities Commission.

Decision No. 63915, Application No. 43854.

BETWEEN the following points:

Alhambra, Altadena, Arcadia, Azusa, Baldwin Park, Bradbury, Covina, Duarte, El Monte, Glendora, Industry, Irwindale, La Puente, Monterey Park, Monrovia, Pasadena, Rosemead, San Gabriel, San Marino, Sierra Madre, South El Monte, South Pasadena, South San Gabriel, Temple City and West Covina.

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 B

Issued by California Public Utilities Commission.

Decision No. 63915, Application No. 43854.