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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 RAILWAY EXPRESS AGENCY, INCORPORATED,)
 for a highway common carrier certi-)
 ficate of public convenience and)
 necessity authorizing line haul trans-)
 portation of express shipments by)
 motor truck between Oakland, Calif-)
 ornia and Truckee, California.)

Application No. 49864
(Filed December 8, 1967)

James Ingwersen and Dudley A. Zinke, for Railway
 Express Agency, Incorporated, applicant.
Graham & James, by Boris H. Lakusta and Paul H.
Delaney, for Delta Lines, Inc., Pacific Motor
 Trucking Company, and Walkup's Merchants
 Express, protestants.
Joseph C. Matson, for the Commission staff.

O P I N I O N

By this application, as amended, Railway Express Agency, Incorporated, requests a certificate of public convenience and necessity as a highway common carrier authorizing line haul transportation of express shipments between the offices of applicant located at Oakland, Vallejo, Martinez, Suisun, Sacramento, Grass Valley, Colfax and Truckee. Applicant presently holds a certificate of public convenience and necessity as an express corporation between the above named points.

Public hearings were held before Examiner O'Leary at San Francisco on April 9, 10, May 28 and July 2, 1968 and at Sacramento on April 16, 1968. The matter was submitted upon the receipt of concurrent briefs on August 30, 1968.

Evidence was adduced on behalf of applicant by its regional vice president, a regional division operations representative,

the manager of its Northern California, Nevada and Hawaii Division and by eleven shipper witnesses. Evidence was also presented by a representative of each protestant. A representative from the Commission's staff participated in the development of the record.

Applicant's witnesses identified Railway Express Agency, Incorporated, as the direct successor to one of California's earliest transportation companies, Wells Fargo, whose express service originated in gold rush days. That company's express service operations were merged in the American Railway Express Company in 1918. That company was in turn succeeded by applicant, a Delaware corporation incorporated in 1929. Applicant has itself rendered an express transportation service since that date, both in California and nationally. As an express company, applicant acts as a surface and air carrier of property for hire transporting commodities of all types. Among the commodities transported by applicant are a number of specialized classes of traffic, such as articles of unusual value, cut flowers, perishables, contaminants, human remains, live creatures and the like. Applicant also offers specialized services which distinguish it from the motor freight common carrier service. Illustrative of such services are applicant's armed guard, armed surveillance, and protective signature service. Applicant also redeems pledges, pays taxes, and makes bank deposits upon request.

Applicant has maintained offices at the communities involved in the present proceeding for many years. Historically, most of the traffic moving from and to those offices was handled in rail passenger trains. By November, 1967, that service had declined to the point where only Oakland and Sacramento were being served by

rail line haul service. All the remaining points were by that date receiving line haul service from Pacific Motor Trucking Company (PMT), acting as applicant's underlying carrier. On November 15, 1967, the last passenger trains suitable for the transportation of express traffic were discontinued. Those trains operated between Oakland and eastern points and handled applicant's traffic moving between Oakland, Sacramento and Reno. Effective the next day, applicant initiated its own highway service between Oakland, California, and Reno, Nevada, pursuant to an emergency temporary authority issued by the Interstate Commerce Commission. That authority did not authorize service to intermediate points. Therefore, from November 16, 1967 to April 4, 1968 applicant operated its own trucks along Interstate Highway 80, transporting only such traffic as originated or terminated east of Truckee. During said period, express traffic originating or terminating west of Truckee was transported by PMT as applicant's underlying carrier, whether that traffic was interstate or intrastate in character. Effective April 4, 1968, applicant began to transport all interstate express traffic moving to or from the involved points, pursuant to additional emergency temporary authority issued by the Interstate Commerce Commission. Intrastate express traffic moving along this route continues to this day to be transported by PMT, with the exception of shipments moving to and from Truckee, which are routed through Reno, Nevada. The traffic to and from Truckee was handled by PMT prior to August 1967, on a mail schedule which PMT operated from Sacramento to Reno. In August 1967 the government awarded the mail schedule to another carrier at which time PMT advised applicant it could no longer handle applicant's traffic to and from Truckee. Exhibit No. 5 discloses

that there was a total of 24 intrastate shipments destined to and 2 intrastate shipments originating at Truckee during the test month of November 1967.

Eleven persons who utilize applicant's service testified in support of the application. Most of the witnesses testified that applicant's service is important to them in their businesses and all of the witnesses testified that they are satisfied that the service has in the past been satisfactory.

Applicant contends that if the authority sought is granted it will enable applicant to render an improved service at a lower cost, because it will then be able to utilize the same equipment it is presently using to transport interstate traffic for the transportation of intrastate traffic. It would then be able to discontinue the segregation of interstate from intrastate traffic and also discontinue the use of underlying carriers. Applicant maintains that the discontinuance of segregation and underlying carriers would result in substantial savings. Applicant has offered to accept as a condition to the grant of a certificate a restriction that the authority granted would terminate if and when the corresponding interstate authority terminated.

The representative of Pacific Motor Trucking Company (PMT) testified that PMT has had in the past and presently has arrangements with applicant to act as applicant's underlying carrier between all points covered by the application. PMT had in the past been able to provide applicant with all of the space it has requested. The witness also testified that PMT is now willing to handle applicant's traffic to and from Truckee on a two day a week basis.

Protestant Delta Lines Inc., provides a daily highway common carrier service to the points involved in the application. Protestant Walkup's Merchants Express provides an overnight highway common carrier service to all points involved with the exception of Truckee.

The witnesses for Walkup's Merchants Express and Delta Lines, Inc., both testified that their firms do not handle as much freight as they are capable of handling between the points served and would be willing to perform service as an underlying carrier for applicant.

Based on the evidence adduced the Commission finds:

1. Applicant holds a certificate of public convenience and necessity authorizing operations as an express corporation between the points involved in the instant application.

2. Historically most of applicant's shipments moving between the points involved moved in rail passenger trains.

3. Gradually traffic was diverted from train transportation so that by November 1967, applicant's traffic moving from and to the points involved, with the exception of Oakland and Sacramento, moved via FMT.

4. Prior to November 16, 1967 applicant's traffic moving from and to Sacramento moved via trains Nos. 21 and 22 operated by Southern Pacific Company between Oakland and eastern points. These trains were also utilized by applicant for traffic moving from and to Reno, Nevada.

5. On November 16, 1967 Southern Pacific trains Nos. 21 and 22 were discontinued.

6. On November 16, 1967 applicant commenced the transportation of shipments in its own equipment between Oakland, California,

and Reno, Nevada, pursuant to an emergency temporary authority issued by the Interstate Commerce Commission. Said authority did not authorize service to or from intermediate points.

7. On April 4, 1968 applicant commenced the transportation of interstate shipments in its own equipment from and to the points involved herein pursuant to additional emergency temporary authority issued by the Interstate Commerce Commission.

8. From November 16, 1967 to April 3, 1968 all shipments moving both interstate and intrastate from or to the points involved herein, except Truckee, were transported by PMT.

9. Since April 4, 1968 all intrastate shipments moving from or to the points involved herein, except Truckee, continued to be transported by PMT.

10. Intrastate shipments to or from Truckee are transported by carriers other than PMT via Reno, Nevada.

11. PMT is willing to perform underlying service to and from Truckee on a two day a week basis.

12. The testimony of the public witnesses discloses they are satisfied with the service presently afforded them by the applicant.

13. Walkup's Merchants Express and Delta Lines, Inc. have the space available and are willing to perform service as an underlying carrier for applicant.

14. Granting of the authority sought would enable applicant to transport intrastate shipments in the same equipment it presently utilizes to transport interstate shipments to the points involved herein. Such an operation would result in certain savings to applicant.

15. Applicant's underlying carrier would no longer enjoy applicant's traffic should the authority be granted.

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16. Applicant would seek to abandon any certificate granted in this proceeding if for any reason it was unable to continue its corresponding interstate operations.

17. The needs of the public are adequately met by applicant utilizing underlying carriers.

18. Applicant has failed to establish that public convenience and necessity require the proposed service.

The Commission concludes from the foregoing findings of fact that the application should be denied.

O R D E R

IT IS ORDERED that Application No. 49864 is denied.

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

Dated at San Francisco, California, this 6th day of NOVEMBER, 1968.

William J. Quinn, Jr.
President

William W. Bennett

Augustine

Paul P. Morrissey
Commissioners