

Decision No. 23737**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 B. A. FLAUTT for a certificate of)
 public convenience and necessity) Application
 to operate motor truck service between) No. 17350
 Gilroy, California, and Hollister,)
 California, only.)

BY THE COMMISSION -

OPINION and ORDER

B. A. Flautt, applicant herein, seeks a certificate of public convenience and necessity under which to operate an auto trucking service for the transportation of property between Gilroy and Hollister. He proposes to transport only express matter of Railway Express Agency, Inc., and to charge for the service rates shown in tariffs of said agency on file with the Railroad Commission. He proposes to use equipment leased to him by Railway Express Agency, Inc. and to give service every day in the week, Sunday included, on the following schedule:

Week Days

Lv. Gilroy 5:30 AM.	Ar. Hollister	6:05 AM.
Lv. Hollister 5:00 PM.	Ar. Gilroy	5:50 PM.

Sunday and Holidays

Lv. Gilroy 5:30 AM.	Ar. Hollister	6:05 AM.
Lv. Hollister 9:00 AM.	Ar. Gilroy	9:45 AM.

Applicant Flautt is the agent for Railway Express Agency, Inc. at Hollister. He seeks the certificate herein applied for to enable him to transport agency shipments heretofore transported by Pacific Greyhound Lines, Inc. The latter company has withdrawn the schedules which formerly served the purposes of Railway Express Agency, Inc. and it is to insure a continuation of the service involved that the instant application has been filed.

Valley Truck Line, which operates a trucking service between Gilroy and Hollister, has waived objection to the granting of the certificate sought

"with the understanding that the business to be handled under the above application by B. A. Flautt is to be confined to the business of the Railway Express Agency, Inc., which has heretofore been handled by the Pacific Greyhound Lines on their early morning and late afternoon trips from Gilroy to Hollister and Hollister to Gilroy, and that B. A. Flautt does not intend to engage in general hauling for account of any person other than the Railway Express Agency, Inc., between these two points, and does not intend to haul to intermediate points between Gilroy and Hollister."

Under the circumstances, we are of the opinion that the certificate asked for should be granted. A public hearing does not appear to be necessary.

B. A. Flautt is hereby placed upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the state which is not in any respect limited to the number of rights which may be given.

O R D E R

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA HEREBY DECLARES that public convenience and necessity require the operation by B. A. Flautt of an auto trucking service for the transportation of property between Gilroy and Hollister, and

IT IS HEREBY ORDERED that a certificate of public convenience and necessity for such a service be and the same is hereby granted to said B. A. Flautt, subject to the following restrictions:

a- That applicant shall confine his operations to the transportation of express of Railway Express Agency, Inc.

b- That no service shall be given to points intermediate between Gilroy and Hollister.

c- That the service shall be limited to the service set forth in the time schedule (Exhibit A), attached to and made part of the application herein.

IT IS HEREBY FURTHER ORDERED that the certificate granted herein is issued, subject to the following conditions:

1- Applicant shall file his written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.

2- Applicant shall make such tariff filings as may be deemed to be necessary and essential by the Railroad Commission.

3- Applicant shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof time schedules, covering the service herein authorized, in a form satisfactory to the Railroad Commission.

4- The rights and privileges herein authorized may not be discontinued, sold, leased, transferred nor assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment has first been secured.

5- No vehicle may be operated by applicant herein unless such vehicle is owned by said applicant or is leased by him under a contract or agreement on a basis satisfactory to the Railroad Commission.

For all other purposes the effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 28th day of May, 1931.

C. L. Smith

M. A. Carr
M. B. Kinn