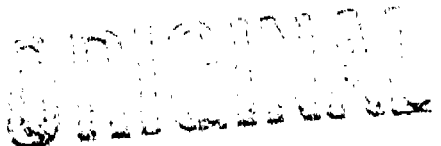


Decision No. 18028

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
W. H. CROWE & SONS, a co-partnership,
for a certificate of public conven-
ience and necessity to operate an
automotive truck line.



Application No. 18028.

Reginald L. Vaughan for Applicant
Sanborn & Roehl, by Frank B. Austin and W. H. Kessler,
for W. F. Venor, Protestant.
E. W. Hobbs and W. S. Johnson for Southern Pacific
Company, Highway Transport Company and
Pacific Motor Transport Company, Protestants
Edward Stern and John Cain for Railway Express
Agency, Inc., Protestant
H. C. Lucas for Pacific Greyhound Lines, Inc., Protestant.

BY THE COMMISSION:

O P I N I O N

W. H. Crowe, J. W. Crowe and H. J. Crowe, co-partners,
under the firm name of W. H. Crowe & Sons, have petitioned the
Railroad Commission, in accordance with their second amended
application for an order declaring that public convenience and
necessity require the operation by them of an automobile truck
line as a common carrier of the following products and commodi-
ties and between the following points:

- (a) berries, fruits, vegetables, cut flowers,
bulbs of all kinds, poultry, rabbits,
eggs, mushrooms, and fresh milk from
Santa Cruz and Swanton and points inter-
mediate thereto, from Santa Cruz and
Boulder Creek and points intermediate
thereto, and from Santa Cruz and Aptos
Creek and points intermediate thereto,

on the one hand, to Mountain View, San Jose and San Francisco, on the other, with the right to pick up at distances not exceeding five miles off of the highways between Santa Cruz and Swanton, Santa Cruz and Boulder Creek, and Santa Cruz and Aptos Creek; and

- (b) On the southbound or return movement, empty containers, or containers which are to be filled, either in container form, or in shook; paper fruit wraps and the following commodities in lots of 5 tons or more: flour, feed, grain, sugar and fertilizer.

Public hearings on the original application were held at Santa Cruz and San Francisco. The matter was finally submitted to the Commission, in pursuance of a written stipulation made and entered into by and between the applicants and all the said protestants on December 8, 1952, whereby each and all of the protestants withdrew their protests in said proceeding and waived any and all objection or other protest to the issuance of a certificate for the transportation service as proposed in applicant's second amended application.

The common carriers who appeared as protestants herein and who executed the said stipulation are:

The Southern Pacific Company
Pacific Motor Transport Company
Pacific Greyhound Lines, Inc.
Highway Transport Company
Railway Express Agency, Inc.

Although certain conditions are included in and agreed to by said applicant in said stipulation, it is of course understood that while consideration would be given under proper circumstances to all the terms thereof, this Commission is not bound thereby and the order granting a certificate herein is based solely upon the evidence in the record.

Applicants propose to charge rates in accordance with their amended Exhibit A attached to said application and to operate on a time schedule as frequently as may be necessary to care for the needs of the shipping public.

Applicants propose to purchase suitable equipment necessary to operate at all times an adequate service.

Many witnesses were called by applicant, consisting of farmers and ranchers owning and operating farms in the territory proposed to be served, all of whom testified to the public necessity for the proposed service. It was shown that berries, fruits, vegetables, milk and other perishable agricultural products are grown extensively in this area. Many of these farmers are also engaged in raising poultry and rabbits. All of these commodities and products are marketed in the early morning at San Francisco and adjacent territory. The evidence shows that during the canning season it is necessary that a large volume of these perishable fruits, vegetables and other agricultural products be transported with expedition to canneries located at Mountain View and San Jose.

With respect to the south-bound transportation of commodities above specified, it was shown that San Francisco shippers and merchants require a prompt transportation service to meet the demands of the entire territory sought to be served. No other regulated carrier is at present operating this limited type of service.

WE ARE OF THE OPINION AND HEREBY FIND AS A FACT that public convenience and necessity require the authorization of the proposed service and that the application should be granted.

Applicants are 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

A public hearing having been held in the above entitled proceeding, the matter having been duly submitted, and being now ready for decision,

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA hereby declares that public convenience and necessity require the operation by W. H. Crowe, J. W. Crowe and H. J. Crowe, co-partners under the firm name of W. H. Crowe & Sons, of an automobile truck line as a common carrier of produce and commodities, as hereinabove specified.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity be and the same is hereby granted to W. H. Crowe, J. W. Crowe and H. J. Crowe, co-partners under the firm name of W. H. Crowe & Sons, for the operation of the service hereinabove described, subject to the following conditions:

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

2. Applicants shall file, in triplicate, and make effective within a period of not to exceed thirty (30) days from the date hereof, on not less than ten days' notice to the Commission and the public a tariff or tariffs constructed in accordance with the requirements of the Commission's General Orders and containing rates and rules which, in volume and effect, shall be identical with the rates and rules shown in the exhibit attached to the application in so far as they conform to the certificate herein granted.
3. Applicants shall file, in duplicate, and make effective within a period of not to exceed thirty (30) days from date hereof, on not less than five days' notice to the Commission and the public, 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 applicants herein unless such vehicle is owned by said applicants or is leased by them 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 27th day of December, 1952.

C. C. Seaver
Leon Whisler
M. A. C.
W. B. Harris
Frederic G. Stewart
Commissioners.

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