

Decision No. 29196

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 INTERURBAN EXPRESS CORPORATION, a cor-
 poration, KELLOGG EXPRESS & DRAYING
 COMPANY, a corporation, MERCHANTS EX-
 PRESS CORPORATION, a corporation,
 PEOPLES EXPRESS COMPANY, a corporation,
 UNITED TRANSFER COMPANY, a corporation,
 A. PASTERIS, doing business under the
 fictitious name and style of EAST BAY
 DRAYAGE AND WAREHOUSE COMPANY, and
 LOUIS ERICKSON, doing business under
 the fictitious name and style of WEST
 BERKELEY EXPRESS AND DRAYING COMPANY,
 for Certificates of Public Convenience
 and Necessity authorizing the operation
 of express services as herein described.)

ORIGINAL

Application No. 19838

BY THE COMMISSION:

O P I N I O N

By this application Interurban Express Corporation, a corporation, Kellogg Express Company, a corporation, Peoples Express Company, a corporation, Merchants Express Corporation, a corporation, United Transfer Company, a corporation, A. Pasteris, operating under the name and style of East Bay Drayage and Warehouse Company, and Louis Erickson, operating under the name of West Berkeley Express and Draying Company seek certificates of public convenience and necessity to operate

- A. as express corporations, as defined in section 2K of the Public Utilities Act, between San Francisco and East Bay Points now being served by them under certificates of public convenience and necessity as highway common carriers and to no other points,
- B. as highway common carriers, as defined in section 2 3/4 of the Public Utilities Act, between San Francisco and East Bay Points now

being served by them under certificate, via the San Francisco-Oakland Bay Bridge, when completed, as an alternate route only and not as an extension or enlargement of applicants' present operative rights.

Prior to a public hearing in this matter, which was to be held on April 2, 1936, the application was temporarily removed from the Commission's calendar upon request of applicants.

Subsequently, under date of September 10, 1936, a written request was received from applicants through counsel requesting the Commission's consideration of their application only in so far as the obtaining of an alternate route over the San Francisco-Oakland Bay Bridge was concerned and advising that applicants had no intention of pursuing their request for express certificates.

Inasmuch as applicants herein and each of them do now possess certificates of public convenience and necessity authorizing them to operate as highway common carriers of property between San Francisco and various East Bay Points and it further appearing that the authority sought herein encompasses the grant of an alternate route only and does not result in either an enlargement or an extension of the present operating rights of applicants, public hearing in this matter no longer appears necessary and, as the public interest will be better served by allowing said applicants to use the San Francisco-Oakland Bay Bridge, the application will be granted in so far as it pertains to the establishment of an alternate route. With reference to the express corporation rights sought, application No. 19838 will be dismissed.

Interurban Express Corporation, a corporation, Kellogg Express Company, a corporation, Peoples Express Company, a corporation, Merchants Express Corporation, a corporation, United Transfer Company, a corporation, A. Pasteris, operating under the name and style of East Bay Drayage and Warehouse Company, and Louis Erickson, operating under the name of West Berkeley Express and Draying Company 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

THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA
HEREBY DECLARES that public convenience and necessity require the operation by Interurban Express Corporation, a corporation, Kellogg Express Company, a corporation, Peoples Express Company, a corporation, Merchants Express Corporation, a corporation, United Transfer Company, a corporation, A. Pasteris, operating under the name and style of East Bay Drayage and Warehouse Company, and Louis Erickson, operating under the name of West Berkeley Express and Draying Company, of an automotive transportation service as highway common carriers of property, between San Francisco and East Bay Points they are now authorized to serve under certificates heretofore received from this Commission, via

the San Francisco-Oakland Bay Bridge as an alternate route only and not as an extension or enlargement of existing operating rights.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same is, hereby granted to

1. Interurban Express Corporation, a corporation
2. Kellogg Express & Draying Company, a corporation
3. Merchants Express Corporation, a corporation
4. Peoples Express Company, a corporation
5. United Transfer Company, a corporation
6. A. Pasteris, operating under the name and style of
East Bay Drayage and Warehouse Company
7. Louis Erickson, operating under the name and style of
West Berkeley Express and Draying Company

each and all of said certificates subject to the following conditions:

1. Applicants shall file a written acceptance of the certificates herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicants shall commence the service herein authorized contemporaneously with the opening of the San Francisco-Oakland Bay Bridge to traffic, and shall file in triplicate and concurrently make effective on not less than ten days' notice to the Railroad 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, or rates and rules satisfactory to the Railroad Commission.
3. Applicants shall file, in duplicate, and make effective contemporaneously with the opening of the San Francisco-Oakland Bay Bridge to traffic, 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 obtained.

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

IT IS HEREBY FURTHER ORDERED that Application No. 19838 in so far as it pertains to the request of applicants for authority to operate as express corporations be and the same hereby is dismissed.

For all other purposes the effective date of this order shall be ten (10) days from the date hereof.

Dated at San Francisco, California, this 19th day of October, 1936.

M. B. Lewis

Leon Whelan

M. A. Carr

Walter W. ...

Walter R. ...

COMMISSIONERS.