

Decision No. 20754

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
SANTA CRUZ MOTOR EXPRESS, INC., a)
corporation for an enlargement of its)
certificate of public convenience and)
necessity, which would authorize it to) Application No. 21769
serve from Santa Cruz and Lexington,)
on the one hand, to Mountain View, San)
Jose and San Francisco, on the other.)

REGINALD L. VAUGHAN, for Applicant.

JOSEPH G. ROBERTSON, for Highway Transport, Inc.,
Interested Party.

BY THE COMMISSION:

O P I N I O N

This is an application by Santa Cruz Motor Express, Inc., a corporation, for authority to establish and operate an automotive service as a highway common carrier of berries, fruits, vegetables, cut flowers, bulbs of all kinds, poultry, rabbits, eggs and mushroom rooms from Santa Cruz and Lexington and intermediate points, on the one hand, to San Jose, Mountain View and San Francisco, on the other hand, as an extension and enlargement of its presently conducted highway common carrier operations and for consolidation therewith.

A public hearing in this matter was conducted by Examiner McGettigan in Santa Cruz on March 16, 1938, at which time the matter was submitted and it is now ready for decision.

Though no protests to the granting of this application were made, Joseph G. Robertson entered an appearance in behalf of Highway Transport, Inc., as its interests might appear.

Harvey J. Crowe testified in behalf of applicant Santa Cruz Motor Express, Inc., and testimony was also received from five

farmer shipper witnesses residing in the territory proposed to be served. In addition there was stipulated into the record the testimony of several additional farmer shipper witnesses on the basis that they would have testified to substantially the same facts as the witnesses of record.

At the hearing the application was amended to provide for a back-haul, gratis, of empty containers limited to such containers as had previously been transported northbound in this service.

Mr. Crowe testified that the service proposed would be operated over state route No. 17 which is the main highway between Santa Cruz and San Jose via Los Gatos. He further testified that there were some twenty or thirty farms in this area engaged in the raising of grapes, cherries, pears, apples, plums, figs, persimmons and prunes; that these commodities are perishable in nature and require an expedited over-night service to commission markets at San Francisco with a small amount going to San Jose and Mountain View for canning purposes; that no regular dependable truck service is now available to the farmers in this territory and that he had been approached by growers asking that such service be inaugurated. He further stated that he had made a survey of the situation and was convinced that public convenience and necessity required the service proposed.

The operation as proposed will be operated on the basis of telephoned requests for service by the farmers in the district which will be received in the Santa Cruz office of applicant up until 7:00 P.M. daily except Sundays and Holidays. The farmers will be required to advise applicant of the amount of produce they will have ready for shipment and applicant proposes to dispatch a truck or trucks, as necessity dictates, at 8:00 P.M. from Santa Cruz. Extra men will accompany these vehicles to load them and the

growers have agreed to have their produce at the roadside ready for the truck as it comes by. It is not proposed, by applicant, to render any field pickup service except where the farm or loading platform is situated within one hundred yards of state route No. 17.

From the testimony of farmer shipper witnesses, it was developed that acreage under cultivation in this area ranges from fifteen to seventy-five acres per farm and the tonnage per farm varies with the year and season from ten tons to as high as seventy-five tons per year. Daily shipments are the rule during the season from late June until late October and the bulk of the tonnage moves into San Francisco commission markets which must be reached no later than 2:00 A.M. of the day following in order that produce may be disposed of profitably. All of the witnesses testified that they would use the service, that the proposal as made was satisfactory and that they were highly desirous of obtaining an expedited dependable truck service which would enable them to market their produce in the appropriate distribution centers.

Applicant has been engaged in the automotive transportation business under certificate of public convenience and necessity since 1932 on a co-partnership basis which was succeeded in 1937 by the applicant corporation.

After fully considering the record in this matter we are of the opinion that the public convenience and necessity will be subserved by the establishment of the service herein sought and that the application should be granted.

Santa Cruz Motor Express, Inc., 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 establishment and operation by Santa Cruz Motor Express, Inc. of an automotive service as a highway common carrier as such is defined in section 2-3/4 of the Public Utilities Act from Santa Cruz and Lexington, on the one hand, to San Jose, Mountain View and San Francisco, on the other hand, via state route No. 17 between Santa Cruz and Lexington as an extension and enlargement of applicant's existing right consolidated therewith and limited

- (a) Northbound to the transportation of berries, fruits, vegetables, bulbs of all kinds, poultry, rabbits, eggs and mushrooms, and
- (b) Southbound, or on the return movement, to the transportation of empty containers.

IT IS HEREBY ORDERED that a certificate of public convenience and necessity therefor be, and the same hereby is, granted to Santa Cruz Motor Express, Inc. subject to the following conditions:

1. Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed fifteen (15) days from date hereof.
2. Applicant shall commence the service herein authorized within a period of not to exceed thirty (30) days from the effective date hereof, 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 conform to the certificate herein granted, or rates and rules satisfactory to the Railroad Commission.

3. Applicant shall file in duplicate, and make effective within a period of not to exceed thirty (30) days after the effective date of this order, on not less than five days' notice to the Railroad Commission and the public, a time schedule or 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 applicant herein unless such vehicle is owned by said applicant or is leased by applicant under a contract or agreement on a basis satisfactory to the Railroad Commission.

6. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.

The effective date of this order shall be ten (10) days from the date hereof.

Dated at San Francisco, California, this 4th day of April, 1938.

Albert H. ...
Leon ...
Francis ...
Ralph ...
Ray L. ...
COMMISSIONERS.