

Decision No. 32222

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
BERKELEY TRANSPORTATION CO., a cor-  
poration, to sell, and CROWLEY LAUNCH  
AND TUGBOAT COMPANY, a corporation,  
to buy, the right to operate vessels  
as a common carrier in the transpor-  
tation of property on the inland  
waters of the State of California.

ORIGINAL

Application No. 22756.

BY THE COMMISSION:

A P P E A R A N C E S.

Gwynn E. Baker, for applicants.  
J. C. Stone and McCutchen, Olney, Mannon & Greene, by  
F. W. Mielke, for Napa Transportation Co., inter-  
ested party.  
Ansel W. Williams, for Southern Pacific Company and  
Pacific Motor Trucking Company, interested party.

O P I N I O N.

Berkeley Transportation Co., a corporation asks per-  
mission to sell, for \$150.00 to Crowley Launch and Tugboat Company,  
a corporation, all the rights which it acquired from E. V. Rideout,  
doing business as E. V. Rideout Co., under the authority granted by  
Decision No. 30561, dated January 31, 1938, as amended by Decision  
No. 30976, dated June 13, 1938, in Application No. 21462. Crowley  
Launch and Tugboat Company asks permission to acquire such rights  
and merge them with its own operations and conduct the operations  
under one management.

By Decision No. 29778, dated May 24, 1937, in Case  
No. 3824 and Case No. 4012, (Volume 40, Opinions and Orders of the  
Railroad Commission of California, pages 493, 517), the Commission  
defined the operative rights of E. V. Rideout as follows:

"A certificated right to transport property between San Francisco and Mare Island Navy Yard; a prescriptive right to render an 'on call' service for the transportation of property between San Francisco on the one hand and Vallejo, points located on the Contra Costa shore of San Pablo Bay, and points on Suisun Bay (but not tributaries thereof) on the other hand; and a prescriptive right to render an 'on call' service for the transportation of lumber in lots of not less than 20,000 lbs. between San Francisco and points on the San Pablo Bay (but not tributaries thereof)."

The testimony shows that the Berkeley Transportation Co. endeavored but was not successful in obtaining sufficient business to warrant it to conduct operations under said operative rights. Because of this fact, it is urged that the Berkeley Transportation Co. has abandoned said operative rights and that, therefore, it has no operative rights to sell to the Crowley Launch and Tugboat Company. The record does not warrant a finding that said operative rights were abandoned by Berkeley Transportation Co. Their transfer will be authorized.

Merger of the operative rights herein authorized to be transferred will also be permitted, provided that no transportation shall be performed under the merged operative rights which could not have been performed by either E. V. Rideout or Crowley Launch and Tugboat Company under their separate operative rights.

#### O R D E R

A public hearing having been held before Examiner Fankhauser and the Commission having considered the testimony at such

hearing,

IT IS HEREBY ORDERED that Berkeley Transportation Co. be and it is hereby authorized to transfer to Crowley Launch and Tugboat Company the operative rights originally held by E. V. Rideout which it acquired under the authority granted by Decision No. 30561 dated January 31, 1938, as amended by Decision No. 30976 dated June 13, 1938, in Application No. 21462.

IT IS HEREBY FURTHER ORDERED that Crowley Launch and Tugboat Company be and it is hereby authorized to acquire the operative rights referred to in the previous ordering paragraph hereof and to merge them with the operative rights it now possesses provided, however, that no transportation shall be performed under the merged operative rights which could not have been performed by either E. V. Rideout or Crowley Launch and Tugboat Company under their separate operative rights.

This order shall become effective fifteen (15) days after the date hereof.

Dated at San Francisco, California, this 19<sup>th</sup> day of

September, 1939.

Robert W. Brown  
Joseph D. Wilson  
Carl Kelley  
H. H. H.  
Justus F. Cameron