

Decision No. 36048

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of M. S. LAURITZEN, individually and as executrix of the last will of E. P. LAURITZEN, deceased, G. B. LAURITZEN and N. P. BUSE, a co-partnership doing business as RICHMOND NAVIGATION AND IMPROVEMENT COMPANY for an order authorizing it to sell and transfer the operating authority herein mentioned to KELLOGG EXPRESS AND DRAYING CO.

ORIGINAL

Application
No. 25342

Reginald L. Vaughan, for Kellogg Express
and Draying Co.

T. H. De Lap of Tinning and De Lap, and
Aaron H. Glickman, for Richmond
Navigation and Improvement Company.

BY THE COMMISSION:

O P I N I O N

M. S. Lauritzen, individually and as executrix of the last will of E. P. Lauritzen, deceased, G. B. Lauritzen and N. P. Bush, a co-partnership doing business as Richmond Navigation and Improvement Company, hereinafter sometimes referred to as the Sellers, ask permission to sell and transfer to Kellogg Express and Draying Co., hereinafter sometimes referred to as the Buyer, the certificates of public convenience and necessity granted by Decision No. 34809, dated December 2, 1941, in Application No. 24611, and by Decision

No. 27970, dated May 20, 1935, in Application No. 19627, and in Case No. 3201. The Buyer requests authorization to consolidate the highway common carrier certificate granted in said Decision No. 27970 with the operating authority granted to it in Decisions No. 25744, 29925, 33478, and 33731, so that it will be authorized to conduct a through highway common carrier service between the points which it is now authorized to serve under and by virtue of said Decisions No. 25744, 29925, 33478, and 33731, on the one hand, and the points authorized to be served under and by virtue of the certificate granted in said Decision No. 27970, on the other hand, and to conduct the vessel service as authorized in said Decision No. 34809 in coordination and conjunction with the consolidated highway common carrier operation just described.

Decision No. 34809 authorizes the Sellers to engage in the operation of a vessel service between San Francisco and Richmond.

Decision No. 27970 authorizes the Sellers to operate a highway common carrier service between Richmond, Albany, El Cerrito, and San Pablo and all intermediate points.

The Sellers are engaged in the operation of vessels in intrastate traffic between Richmond and San Francisco; in conducting a highway common carrier service between Richmond, Albany, El Cerrito, and San Pablo, and points intermediate thereto; in operating vessels in interstate and foreign commerce between San Francisco and Richmond; in conducting a motor carrier operation in interstate and foreign commerce

between Richmond and the docks in Oakland and Alameda; in conducting a local drayage business in Richmond; in transporting commodities by vessel for the United States Army, Navy, and Maritime Commission; and in buying and selling building materials.

For the ten months ending October 31, 1942, the Sellers report revenues of \$152,382.29, segregated as follows:

Sales - Building materials	\$ 95,438.01
Freight Receipts	37,976.62
Misc. Transportation Revenue	9,707.97
Property Rentals	7,697.50
Misc. Income	1,562.19

The testimony shows that the demands made upon the Sellers by the United States Army, Navy, and Maritime Commission have become so great that they can no longer render an efficient intrastate transportation service. They have reached a point, because of the lack of equipment and personnel, where they must sacrifice either the United States Army, Navy, and Maritime Commission business in order to continue to render an intrastate transportation business or sacrifice the interstate business conducted for the United States Army, Navy, and Maritime Commission. They have concluded to sell their intrastate business. Their boat, the "Maggie" is totally out of commission at present because of their inability to get the necessary repair parts. The ten trucks which they own are not sufficient to expeditiously handle the Richmond, Albany, El Cerrito, and San Pablo business.

The Buyer is now engaged in operating a highway common carrier service between San Francisco and certain Alameda points, including Albany. Its subsidiary, Napa Trans-

portation Company, owns vessels which can be used in the Richmond-San Francisco service. As stated, the Buyer requests permission to consolidate the highway common carrier certificate of the Sellers with its operating authority granted by Decisions No. 25744, 29925, 33478, and 33731. The Buyer further requests permission to conduct the vessel service authorized by Decision No. 34309 in coordination and conjunction with its consolidated highway common carrier operation. Under its program, commodities moving from San Francisco to Richmond will be transported either by vessel or truck, depending upon which is the most economical and expeditious service.

The Buyer has agreed to pay the Sellers for the operative rights, \$10,000, such payment to be made on the effective date of the final order of the Railroad Commission. The testimony shows that this sum will be borrowed by the Buyer from its President and principal stockholder, Lloyd Swayne. The loan will be represented on the Buyer's records as an account payable. The testimony does not show what sum, if any, was expended by the Sellers in obtaining the operative rights which they have agreed to sell to the Buyer. Under these circumstances, we believe that if the Buyer pays \$10,000 for the operative rights of the Sellers, such payment should be charged to Account 1890, Other Deferred Debits, and amortized within five years after the date of the acquisition of such operative rights by charges to the appropriate income account.

O R D E R

A public hearing having been held in the above entitled matter before Examiner Fankhauser; the Commission having considered the evidence submitted at such hearing and it being of the opinion that this application should be granted subject to the provisions of this Order, therefore

IT IS HEREBY ORDERED as follows:

1. M. S. Lauritzen, individually and as executrix of the last will of H. P. Lauritzen, deceased, G. B. Lauritzen and N. P. Bush, a co-partnership doing business as Richmond Navigation and Improvement Company, may sell and transfer, on or before January 31, 1943, to Kellogg Express and Draying Co. the certificates of public convenience and necessity granted by Decision No. 34809, dated December 2, 1941, in Application No. 24611, and by Decision No. 27970, dated May 20, 1935, in Application No. 19627, and in Case No. 3801, such sale and transfer to be made pursuant to the terms of the agreement on file in this proceeding as Exhibit "A."

2. Upon the acquisition of said certificates of public convenience and necessity, Kellogg Express and Draying Co. may consolidate the highway common carrier certificate granted by said Decision No. 27970 with the operating authority granted to it by Decisions No. 25744, 29925, 33478, and 33731, so that it will be authorized to conduct a through highway common carrier service to the points which it is now authorized to serve under and by virtue of said Decisions No. 25744, 29925, 33478, and 33731, on the one hand, and the points author-

ized to be served under and by virtue of the certificate granted by said Decision No. 27970, on the other hand, and may conduct the vessel service authorized by said Decision No. 34809 in coordination and conjunction with the consolidated highway common carrier operation described in this paragraph.

3. Whatever sum Kellogg Express and Draying Co. pays for said operative rights shall by said Kellogg Express and Draying Co. be charged to Account 1890, Other Deferred Debits, and amortized by charges to the appropriate income account within five years after the acquisition of said operative rights.

4. Applicants shall comply with the Commission's General Order No. 80 and with Part IV of the Commission's General Order No. 93-A by filing, in triplicate, and making effective concurrently, tariffs and time schedules satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than five days' notice to the Commission and to the public.

5. The authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act, and further to the condition that Kellogg Express and Draying Co., its successors, and assigns shall never claim before this Commission or any court or any other public body, a value for said operative rights or claim as a cost thereof, an amount in excess of that paid for said rights by those to whom said rights were originally granted.

6. The authority herein granted will become effec-

tive upon the date hereof.

Dated at San Francisco, California, this 27th day
of December, 1942.

Justus F. Coleman

Francis D. Havenner
Richard H. Haskin
Commissioners.