

Decision No. 36494

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
Crowley Launch & Tugboat Co. and Bay)	
Cities Transportation Company for)	
Authority to Transfer to Bay Cities)	Application No. 25599
Transportation Company certain oper-)	
ating rights of Crowley Launch &)	
Tugboat Co.)	

BY THE COMMISSION:

O P I N I O N

By this application, Crowley Launch & Tugboat Co. seeks authority to sell to Bay Cities Transportation Company operative rights under which the former transports property as a common carrier by vessel between various points on San Francisco, San Pablo and Suisun Bays, San Joaquin, Sacramento and Napa Rivers, Petaluma Creek, and their tributaries.¹ These operations are proposed to be merged with common carrier by vessel operations now conducted by Bay Cities Transportation Company.²

It is alleged that Bay Cities Transportation Company possesses large terminal facilities and substantial amounts of terminal and floating equipment; that the use of its facilities and equipment in the proposed merged operations would improve and facilitate the receipt and delivery of shipments and at the same time

¹ The rights involved are those which Crowley was found to possess in Decision No. 29778 (40 C.R.C. 493), and those which it was authorized to acquire and merge with its then existing rights by Decision No. 32336 (42 C.R.C. 903).

² Decision No. 29778 (40 C.R.C. 493) defined Bay Cities' operative rights as those of a common carrier of property by vessel between San Francisco on the one hand and Oakland and Alameda on the other.

provide the public with more efficient and direct transportation service between the points involved; that the equipment of Crowley Launch & Tugboat Co. would be devoted to other services, such as the United States Navy's Lighterage Coordinating Pool, requiring additional equipment; and that accounting procedures would be simplified.

Competing carriers have been notified by applicants of the filing of this application. No objection has been offered to its being granted.

The consideration involved is \$1. This sum is proposed to be paid for the operative rights. Authority to transfer physical assets is not here sought. It should be clearly understood that the authorization hereinafter granted is not an approval of the purchase price in any respect, nor a finding of value for the purpose of rate fixing, issuance of securities, accounting or for any other purpose.

Bay Cities Transportation Company is placed upon notice that "operative rights" as such do not constitute a class of property which may be capitalized or used as an element of value in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business between designated points. 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.

The transfer as proposed herein appears to be in the public interest and the application will therefore be granted. A public hearing is not necessary.

O R D E R

IT IS ORDERED:

(1) That Crowley Launch & Tugboat Co., a corporation, is authorized to sell and transfer to Bay Cities Transportation Company, a corporation, and Bay Cities Transportation Company is authorized to acquire, the common carrier operative rights of Crowley Launch & Tugboat Co. to transport property by vessel between points described in this application.

(2) That Bay Cities Transportation Company is authorized to merge the operative rights which it is herein authorized to acquire with its existing operative rights.

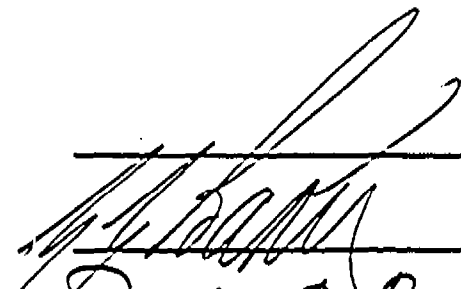
(3) That the authority herein granted is subject to the provisions of Section 52(b) of the Public Utilities Act and further to the condition that Bay Cities Transportation Company, its successors and assigns, shall never claim before this Commission, or any court or other public body, a value for said operative rights or claim as the cost thereof, an amount in excess of that paid to the State as the consideration for such rights.


(4) That the authority herein granted is subject to the further condition that Crowley Launch & Tugboat Co. and Bay Cities Transportation Company shall comply with the rules of the Commission's Tariff Circular No. 2 by filing, in duplicate, and concurrently making effective tariffs satisfactory to the Commission within sixty (60)

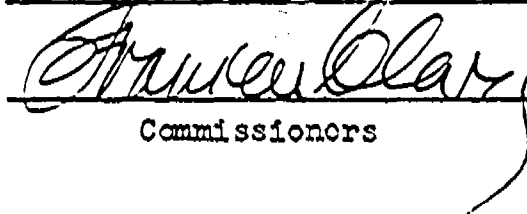
days from the effective date hereof and on not less than five (5) days' notice to the Commission.

The effective date of this order shall be twenty (20) days from the date hereof.

Dated at San Francisco, California, this 20th day of July, 1943.







Commissioners