

Decision No. 37458

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CLAYTON L. CONROW, an individual, to)
sell and transfer highway common)
carrier operative rights, equipment)
and business to RUSSELL B. MINEAU,)
LEONARD J. RONG, JOSEPH T. ARSENIO,)
IVAN A. LOOMIS, CLINTON E. LOOMIS)
and J. VARD LOOMIS, a co-partnership,)
doing business under the name of)
ARROYO GRANDE TRUCK COMPANY.)

ORIGINAL

Application No. 26416

BY THE COMMISSION:

O P I N I O N

By Decision No. 27745, dated February 11, 1935, applicant Clayton L. Conrow was granted a certificate of public convenience and necessity to establish and operate an automotive "on call" service for the transportation of certain described commodities,¹ between San Luis Obispo, Morro Bay, Pecho, Edna, Pismo Beach, Oceano, Arroyo Grande, Berros, Nipomo, Osoflaco, Guadalupe, Santa Maria, Harriston, Goleta and Summerland, on one hand and Los Angeles on the south and San Jose, San Francisco and Oakland, on the north, with the right of pickup and/or delivery at any point not more than ten (10) miles east of Highway No. 101, and only between Summerland and San Luis Obispo, or for the distances between said highway and the Pacific Ocean between Summerland and San Luis Obispo only, subject to certain restrictions, limitations and conditions imposed by said decision and by Decisions Nos. 27815 and 27835, dated March 4, 1935, and March 19, 1935, respectively.

In this application, Clayton L. Conrow requests the Commission's authority to sell and transfer the highway common carrier.

¹ The commodities, (vegetables, fruits, etc.,) are those listed in Exhibit "A" in Application No. 19774 as modified by Decisions Nos. 27745 and 27815.

operative rights, equipment and business to Russell B. Mineau, Leonard J. Rong, Joseph T. Arsenio, Ivan A. Loomis, Clinton E. Loomis and J. Vard Loomis, doing business as Arroyo Grande Truck Company, a copartnership, who join in the application.

Transferor states that he has at all times conducted said highway common carrier business under and in accordance with said decision and tariffs on file with this Commission, the present effective tariff applicable to this operative right being Local Freight Tariff No. 3 of Clayton L. Conrow, C.R.C. No. 3.

Gross operating revenue, expenses and the profit or loss of applicant seller for the years 1939 to 1943, inclusive, and the first eight months of 1944 were as follows:

Year	Revenue	Expenses	Profit or Loss
1939	\$19,122.25	\$19,186.54	\$ (64.29)
1940	23,105.45	19,473.64	3,629.81
1941	21,384.05	20,111.65	1,272.40
1942	51,359.67	50,364.46	995.21
1943	83,568.25	84,692.08	(1,123.83)
1944 (8 Mos.)	67,977.66	64,471.24	3,506.42
	(red figure)		

The automotive equipment proposed to be transferred consists of seven trucks, seven trailers and three tractors. The original cost was \$47,099.00 upon which there is a present balance owing of approximately \$8,000.00. It is stated that the present reasonable value of said equipment is in excess of \$30,000.² In addition

2 Trucks and Tractors:		Original Cost
Chevrolet	1932 (Stake) 1 1/2 T	\$ 1,030.00
Ford B	1932 1 1/2 T	1,030.00
Ford A	1929 1 T	865.00
International	1944 KR11 Tractor	6,450.00
Ford	1935 Pickup	615.00
GMC	1940 (Stake) Tractor	2,396.00
Chevrolet	1939	1,960.00
Reo	1935 Diesel	5,414.00
International	1939 DR70	6,185.00
GMC	1941 Tractor	5,074.00
Total - Trucks and Tractors		\$31,049.00
Trailers:		
Newcomer	1929	\$ 1,650.00
Homemade (1 axle)	1943	1,200.00
Homemade	1927	100.00
Callahan	1937 (Stake)	2,800.00
Weber	1940 (Stake)	2,800.00
Utility	1937 (Stake)	3,300.00
Utility	1944 (Stake)	4,200.00
Total - Trailers		\$16,050.00
TOTAL		\$47,099.00

to the automotive equipment it is proposed to sell and transfer "all of the goodwill, trade name, franchises, operating rights, equipment, stores, supplies, parts and personal property..... appertaining to or used in.....the conduct of said business".

By the agreement of sale, dated October 7, 1944, transferees agree to pay the purchase price of \$33,100.00 in the following manner: \$1,000.00 cash upon the execution of the agreement; \$11,000.00 cash to be deposited in escrow; assumption of approximately \$8,000.00 of seller's obligations for unpaid balances on motor vehicle equipment, and a promissory note payable to seller on or before one year from date, bearing interest at 5% per annum, in the principal sum amounting to the difference between the total sale price and the sum of twelve thousand dollars plus the said unpaid balances on motor vehicle equipment to be assumed by buyers. Twenty-five hundred (\$2,500) dollars is said to represent the value of the operating rights.

The transferee is a copartnership consisting of six general partners, all residents of San Luis Obispo County. The partnership agreement provides that each partner shall contribute equally to the capital assets and share equally in the assets, liabilities, profits, and losses of the business. It is alleged in the application that the net worth of the partners is substantially in excess of \$250,000.00.

As required by law, fifty (\$50) dollars in filing fees has been paid for filing the applications in connection with the operative rights involved herein. If the copartnership acquires this operative right it may charge to Intangible Capital a sum not in excess of fifty (\$50) dollars.

After full consideration of this matter, the Commission is of the opinion and finds that the property transfer is in the public

interest; that a public hearing is not necessary, and that the application should be granted.

Russell B. Mineau, Leonard J. Rong, Joseph T. Arsenic, Ivan A. Loomis, Clinton E. Loomis, and J. Vard Loomis, a copartnership, are hereby 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 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.

ORDER

IT IS HEREBY ORDERED that Clayton L. Conrow be and he is hereby authorized to transfer to Russell B. Mineau, Leonard J. Rong, Joseph T. Arsenic, Ivan A. Loomis, Clinton E. Loomis, and J. Vard Loomis, a copartnership, doing business under the name of Arroyo Grande Truck Company, the operative rights acquired under authority of Decision No. 27745, as amended by Decision No. 27851, and automotive equipment and business referred to in the foregoing opinion, and that Russell B. Mineau, Leonard J. Rong, Joseph T. Arsenic, Ivan A. Loomis, Clinton E. Loomis, and J. Vard Loomis, a copartnership, be and they are hereby authorized to purchase and acquire said rights, equipment, and business and thereafter to operate thereunder, subject to the following conditions:

- (1) That within thirty (30) days after the transfer of the properties authorized herein, said copartnership shall file with this Commission a copy of the Bill of Sale executed under the authority herein granted.

- (2) That if the purchasers acquire the operative rights and property they may charge to Intangible Capital account not more than fifty (\$50) dollars of the purchase price of the operative rights, the remainder of the payment for such operative rights is to be charged to Proprietor's Investment account.
- (3) That applicants shall comply with the provisions of General Order No. 80, and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty (60) days from the effective date hereof, and on not less than one (1) day's notice to the Commission and the public.
- (4) That the authorization herein granted shall lapse and become void if not exercised within one (1) year from the date hereof unless further time is granted by subsequent order.
- (5) The action taken herein shall not be construed to be a finding or determination of value by this Commission for any purpose other than the proceeding herein involved.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 9th day of

November, 1944.

Richard L. Cook
Justin D. Casner
Francis R. Havenue

Irving S. Daniels
Commissioners