

ORIGINALDecision No. 47564

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CRAIL TRANSPORTATION CO., a California)
 corporation, for a certificate of)
 public convenience and necessity to) Application No. 32857
 operate as a highway common carrier of)
 certain specified commodities between)
 points and places in California over)
 regular routes.)

Glanz & Russell, by Theodore W. Russell and E. F. Shelander, for applicant.
E. L. H. Bissinger, for Southern Pacific Company, Pacific Motor Trucking and Pacific Electric Railway Company; H. P. Merry and John B. Robinson, for Southern California Freight Lines and Southern California Freight Forwarders; Marvin Handler, for E. Guy Warren, doing business as Warren Transportation Company; Willard S. Johnson, for J. A. Nevis Trucking, Inc.; R. K. Knowlton, for The Atchison, Topeka & Santa Fe Railway Company and Santa Fe Transportation Company; L. R. Guerra and E. R. Goodman, for Western Truck Lines; Bart F. Wade, for Asbury Transportation Co.; Gordon, Knapp & Gill, by Hugh Gordon, for Pacific Freight Lines, Pacific Freight Lines Express, Belyea Truck Co., and Bigge Drayage Co.; and Douglas Brookman, for California Motor Express, Ltd.; California Motor Transport, Ltd., and Merchants Express, protestants.
C. A. Millen, for Valley Express Company and Valley Motor Lines, Inc.; Rush Swoape, in propria persona; H. E. Schiffner, for Lacey Trucking Company; and W. H. Stewart, for Daigh & Stewart Truck Company, interested parties.

O P I N I O N

Applicant, Crail Transportation Co., a California corporation, requests authority to transport, as a highway common carrier, heavy machinery and equipment, and other commodities of unusual size or weight, between points along all major highways within the state, including service to off-route points. The territory covered would practically encompass the entire state. Shipments would be limited to a 20,000-pound minimum.

A public hearing was held in Los Angeles before Examiner Chiesa. Oral and documentary evidence having been adduced, the matter was submitted for decision.

The record shows that applicant is engaged in the business of transporting heavy machinery and equipment, particularly that pertinent to oil well drilling and refining. The company was incorporated in 1948 and succeeded to the similar business which for many years previously had been conducted as a proprietorship known as Crail Bros. Applicant is now authorized to engage in the transportation business as a contract carrier, city carrier, and radial highway common carrier. It does not possess any highway common carrier operative rights. Its principal place of business is in Long Beach, California, where it maintains its office, shop, and other terminal facilities on approximately eight acres. No other terminal facilities are operated or proposed. Thirty-four persons are employed.

The applicant is financially responsible (Exhibits Nos. 5 and 6), and its officers and employees are experienced and skilled in the type of transportation service proposed. Its equipment consists of approximately forty-one pieces suitable for various types of heavy hauling (Exhibit No. 1).

It appears from the evidence and we find that applicant is capable of conducting a transportation business such as it proposes. However, we cannot find that there is a public need for applicant's service to the extent requested. Substantial evidence is lacking that there is a public need for applicant's proposed highway common carrier service to, from or between points north of the San Joaquin oil basin. The record shows that applicant is now conducting extensive operations in the transportation of heavy machinery and equipment

of many kinds, principally in Southern California. Frequent and regular shipments are not made to all points or over all routes; however, the evidence shows that applicant proposes to hold itself out to serve the public generally, and that shipments are now transported between various Southern California points with some consistency, considering the unusual character of the lading. We find justification in the record for the granting of a certificate of public convenience and necessity between points and along routes as set forth in the order following this opinion.

Exhibit No. 7, which lists all of applicant's shipments for the months of August and September 1951, which shipments are representative of applicant's year-round business, shows a total of 468 shipments for August and 429 for September. In August the point of origin for 394 of said shipments was Los Angeles County, which also was the originating point for 353 of the September shipments. Los Angeles County was the destination point for 385 of the August shipments and 325 of the September shipments. Most of the remaining shipments originated in and were destined to Orange County, with the remaining number scattered mainly throughout other Southern California counties.

County	August 1951		September 1951	
	Point of Origin	Point of Destination	Point of Origin	Point of Destination
Los Angeles	394	385	353	325
Orange	52	47	42	55
Ventura	7	12	8	20
Kern	8	6	4	9
Riverside	4	3	4	1
San Bernardino	-	6	4	3
Santa Barbara	-	4	-	3
San Diego	-	2	-	-
Fresno	-	2	1	2
San Luis Obispo	-	1	-	1
San Joaquin	-	-	1	-
Del Norte	-	-	1	1
Imperial	-	-	1	2
Monterey	-	-	-	1
Solano	-	-	-	2
Others (locality unknown)	3	-	10	4
	<u>468</u>	<u>468</u>	<u>429</u>	<u>429</u>

The evidence of record does not justify certification of a highway common carrier service for transportation of "Building and Construction Materials and Supplies." Exhibit No. 7 shows clearly that applicant's business is that of transporting heavy machinery and equipment used in the building and construction business, particularly the oil well drilling and refining business, and not the materials and supplies that go into the construction of buildings or roads and other ground projects. However, a public need was shown for applicant's services for the transportation of materials and supplies incidental to or used in the exploration, drilling and refining of natural gas and petroleum.

Nine shipper witnesses testified that they have been hiring applicant for the transportation needs of their respective companies and that they need the proposed highway common carrier service. Six are in the oil drilling or supply business, two in road construction, and one in general construction such as roads, dams, tunnels and airfields. Their testimony corroborated evidence contained in Exhibit No. 7. Two of the protestants, J. A. Nevis Trucking, Inc. and Warren Transportation Co., are certificated carriers to, from or between points in the San Francisco area and other Northern California points. Two others, Pacific Freight Lines and Southern California Freight Lines, are carriers of general commodities, and the evidence indicates that they do not specialize in the type of transportation service herein proposed, nor does it appear that the granting of operating rights to applicant, as hereinafter set forth, would adversely affect their earnings as applicant is now an established carrier doing a substantial business. (2)

(2) In 1951 applicant's total operating revenues and expenses were \$347,470.19 and \$339,646.63, respectively. After consideration of other income and expenses, the net profit for the year was \$22,235.48 (Exhibit No. 6).

It was not shown that applicant's proposed operations would adversely affect the business of the railroads or their affiliated trucking concerns. Still another protestant, Belyea, which is a heavy commodities trucker, objected to the granting of a certificate to applicant. This protestant is not a certificated carrier and it does not appear from the evidence how favorable action on this matter could affect its business. Several other carriers entered appearances but offered no evidence. On the other hand, several certificated carriers of similar commodities appeared in favor of the application.

At the conclusion of applicant's operating evidence, it was moved on behalf of some protestants that the application be dismissed because, it was contended, the record showed that applicant did not intend to serve the public generally as a highway common carrier between fixed termini or over regular routes. It was also suggested that this Commission declare that applicant's operations were those of a contract carrier and/or a radial highway common carrier for which a certificate is not necessary. The examiner denied the motion, basing his ruling upon the operating evidence then of record showing the general and extensive character of applicant's business, and for the further reason that an applicant is entitled to complete the presentation of its case by producing the testimony of shipper witnesses as to public need for its services. We affirm the ruling. In an application for a highway common carrier certificate of public convenience and necessity the Commission is asked to decide, after applicant has presented all of its evidence, if a public need exists for the service as proposed.

Having considered the entire record, we are of the opinion and so find that public convenience and necessity require that a certificate be granted upon the terms and conditions as set forth in the order which follows this opinion.

Crail Transportation Co. is 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.

O R D E R

A public hearing having been held, the Commission being fully advised in the premises and having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be, and it hereby is, granted to Crail Transportation Co., a corporation, authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 213 of the Public Utilities Code, for the transportation of:

- (a) Machinery, equipment, materials and supplies incidental to or used in the construction, exploration, development, operation, refining, production and maintenance of facilities for the discovery, development, production, or refining of natural gas, petroleum and petroleum products

- (b) Machinery and equipment of unusual size or weight
- (c) Property or commodities of unusual size and weight requiring use of special equipment
- (d) Building contractors' equipment
- (e) Grading and paving equipment
- (f) Electrical transmission equipment
- (g) Water well drilling equipment
- (h) Mining machinery and equipment
- (i) Fabricated structures, tanks and hangars
- (j) Such materials and supplies as are appurtenant to or a necessary part of the machinery, equipment and property herein authorized to be transported in subparagraphs (b) to (j) inclusive, but not building or construction materials and supplies generally used in the various building and construction businesses

from, to and between all points on or within fifty (50) road miles laterally of the following routes:

U. S. Highway 101, 101 By-Pass and 101 Alternate, between the Mexican border and King City

U. S. Highway 99 between the Mexican border and Madera

U. S. Highway 6 between Los Angeles and Benton Station

U. S. Highway 395 between San Bernardino and Inyokern

State Highway 127 between Baker and Nevada state line

U. S. Highway 466 between Barstow and Nevada state line

U. S. Highway 66 between Los Angeles and Needles

U. S. Highway 70 between Los Angeles and Blythe

U. S. Highway 80 between San Diego and Winterhaven

subject to the following conditions and restrictions:

Applicant shall not transport any shipment weighing less than 20,000 pounds or subject to a lower charge than applicable on a shipment of 20,000 pounds.

(2) That, in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

- (a) Within thirty (30) days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.
- (b) Within sixty (60) days after the effective date hereof, and upon not less than five (5) days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate, and concurrently make effective, tariffs and time schedules satisfactory to the Commission.
- (c) Subject to the authority of this Commission to change or modify them by further order, applicant shall conduct operations pursuant to the certificate herein granted over and along the routes hereinabove described.

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

Dated at San Francisco, California, this 11th day of August, 1952.

[Signature]
President

[Signature]
[Signature]
Commissioners