

**ORIGINAL**Decision No. 52393

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 SANTA CRUZ MOTOR EXPRESS, INC., a )  
 corporation, for a certificate of )  
 public convenience and necessity )  
 authorizing the transportation of )  
 property between San Francisco and )  
 East Bay points, on the one hand, )  
 and Santa Cruz and points within )  
 ten miles thereof, on the other )  
 hand. )

Application No. 35722

Vaughan, Paul and Lyons, by John G. Lyons, for  
 applicant.  
Edward M. Berol, for Highway Transport, Inc.,  
 and Coast Line Truck Service, Inc.;  
William Meinhold and Frederick E. Fuhrman,  
 for Southern Pacific Company and Pacific  
 Motor Trucking Company, protestants.  
Willard S. Johnson, for J. Christenson Company  
 as protestant and later as an interested party.

O P I N I O N

This application was filed on August 20, 1954. Public hearings were held in Santa Cruz on August 1, 1955; and in San Francisco on August 4, 1955. Applicant presented its president, its accountant and six public witnesses. Protestants called one operating witness from each, three in all. One protestant also called an expert witness through whom certain exhibits were introduced. At the conclusion of the August 4 hearing the matter was submitted subject to the filing of concurrent briefs. These were received on September 26 and the matter is ready for decision.

In addition to its oral testimony applicant presented four exhibits including two financial ones and a freight bill study. One protestant introduced 11 exhibits relating to its own

operations and three relating to applicant's. The other protestants put in four exhibits and one exhibit, respectively.

The operating right here sought to be enlarged stems from one created in 1932. In December of that year W. H. Crowe and Sons were granted a certificate to transport produce, flowers and bulbs, poultry, rabbits, eggs and milk from the area around Santa Cruz to Mountain View, San Jose and San Francisco. On the return movement the transportation of containers and of lots of five tons or more of flour, feed, grain, sugar and fertilizer was authorized. In January, 1936, the three grantees obtained authority to transfer their right to applicant corporation. In 1939 applicant's authority was extended to include markets and processing plants in Oakland, Emeryville and San Leandro. The only back haul authorized was for empty containers destined to farms and ranches.

Applicant's present president (one of the operating witnesses) has been in the trucking industry since 1939 except for the war years. His first experience was as a driver. In 1948, in connection with two other men, he purchased the stock of applicant. In 1951 the witness and one other person took over all of applicant's stock. The witness is solely responsible for management, the other stockholder being inactive.

Applicant's terminal in Santa Cruz is located on a lot three-fourths of an acre in area and is leased from members of its president's family. On it is a concrete dock of 11 truck capacity. There are, also, office space, a shop, and fuel and lubricant storage facilities. The remaining portion of the lot is paved and used for parking of applicant's vehicles. The operating witness testified that he has made arrangements to

lease terminal facilities in San Francisco and Oakland if the certificate is granted. Three trucks, three tractors and three semitrailers are owned and used in the business.

The Commission is of the opinion and finds that the equipment, facilities, experience and personnel of applicant are sufficient for the purposes of this application.

The financial evidence merits some extended comment. It became obvious during the oral testimony upon the financial statement exhibits that the balance sheets were not prepared and the accounting records were not maintained in accordance with the best practice of the industry. Three defects were readily apparent. First, estimated service lives used to compute depreciation on operating equipment were much too short. Second, the Commission's uniform system of accounts had not been followed in some respects. Third, the corporate statements contained items which were not assets or liabilities of the corporation.

A short period of depreciation was used and the assets of applicant are substantially understated. The distortion thus created is accentuated by the fact that the remaining balance owed by the present stockholders on their stock purchase agreement appears on applicant's books as a corporate liability. Applicant seems to have attempted to solve the problem thus created by carrying on the books a substantial item described as "organization and franchise costs", the exact nature of which is not clear in the evidence but which may be a fictitious asset.

The balance sheets in their present form may be open to question. There is, however, little in the record to indicate financial distress. No evidence of excessive lag in payment of obligations or taxes appears except, possibly, in the case of

insurance. It appears that both corporate and personal insurance expense have been commingled in a single open book account.

Applicant has had recent substantial extensions of credit on the purchase of equipment. The evidence indicates that the operating witness was correct in saying that he could carry out any expansions that granting of the sought certificate might make necessary. It appears that applicant has the necessary financial ability to meet its obligations as a common carrier but that its accounting practices are in need of revision.

Six shippers and receivers of freight supported the application. One represented a grocery or canned goods establishment. The second was manager of a plant manufacturing water heaters, hand tools and other metal products. A third was a dealer in stone, supplies and plastic materials. The fourth and fifth received tires and tubes while the fifth witness received batteries and all kinds of electric and gas appliances. The sixth witness represented a mushroom cannery. These witnesses had used applicant's service and praised it. They testified to their desire to have it continued. In connection with their testimony it should be noted that the number of shipper witnesses was limited to avoid cumulative testimony.

There are other considerations favorable to the granting of the application. Santa Cruz Motor Express is the only carrier involved in this proceeding that has headquarters in Santa Cruz. Furthermore, it concentrates its entire service in the area here involved. Protestants conduct far wider operations with correspondingly less emphasis on Santa Cruz shipments. It is also true that applicant has been a common carrier in this area for more than 20 years. The present management has been in charge since

1948 and in complete charge since 1951.

Coast Line Truck Service, Inc., filed a protest in this matter. In the Commission's opinion this protest should not be considered because, on the filing date of this application, Coast Line's authority did not include general commodity authority between Santa Cruz and the San Francisco Bay area points requested by applicants. The present application was filed on August 20, 1954. Coast Line acquired its general commodity right into Santa Cruz under Decision No. 50500, dated August 31, 1954, in Application No. 35656. It is the Commission's opinion that the relative rights of applicants and protestants are to be considered as they were on the day the applications were filed. Furthermore, we find nothing in the protest of Coast Line which would militate against the grant of a certificate to applicant.

Protestants emphasized chiefly the lack of variety of commodities carried in the past by applicant; the bad state of applicant's balance sheet and an alleged lack of facilities. They do not dwell on the amount of competition at Santa Cruz, the applicant's common carrier services or the growth of the community.

Santa Cruz and the surrounding area have constituted for some time recently an agricultural and recreational area. The stores there have been groceries, hardware, appliances, paint, auto supplies and articles needed by farmers and ranchmen. Its principal exports would be agricultural products, such as grapes and unprocessed. A community of such type usually carries an especially wide list of commodities. Just recently the community has begun to industrialize. As yet there

*CORRECTION*

# CORRECTION

THIS DOCUMENT  
HAS BEEN REPHOTOGRAPHED  
TO ASSURE LEGIBILITY

1948 and in complete charge since 1951.

Coast Line Truck Service, Inc., filed a protest in this matter. In the Commission's opinion this protest should not be considered because, on the filing date of this application, Coast Line's authority did not include general commodity authority between Santa Cruz and the San Francisco Bay area points requested by applicants. The present application was filed on August 20, 1954. Coast Line acquired its general commodity right into Santa Cruz under Decision No. 50500, dated August 31, 1954, in Application No. 35656. It is the Commission's opinion that the relative rights of applicants and protestants are to be considered as they were on the day the applications were filed. Furthermore, we find nothing in the protest of Coast Line which would militate against the grant of a certificate to applicant.

Protestants emphasized chiefly the lack of variety of commodities carried in the past by applicant; the bad state of applicant's balance sheet and an alleged lack of facilities. They did not dwell on the amount of competition at Santa Cruz, the age of applicant's common carrier services or the growth of the community.

Santa Cruz and the surrounding area have constituted until quite recently an agricultural and recreational area. The main imports have been groceries, hardware, appliances, paint, clothing and auto supplies and articles needed by farmers and processors. Its principal exports would be agricultural products, both processed and unprocessed. A community of such type usually does not require an especially wide list of commodities. Just recently the community has begun to industrialize. As yet there

are few industrial enterprises in the area. Applicant is the principal carrier for two of them. No one can presently predict how far the industrialization trend will continue. In that state of affairs strait jackets on the common carrier services available to the Santa Cruz public seem undesirable.

The accounting of applicant needs correction as we have said, yet it sufficiently appears that the deficiencies of the balance sheet exhibits are largely matters of judgment or form rather than of substance. The necessary corrections can readily be made and the following order will require that this be done.

The contention that applicant lacks facilities is based on the fact that it has no terminals in the San Francisco Bay area. This argument seems to be based on a misconception of what a common carrier's duty to the public is. That duty is to serve promptly and efficiently. If there were any evidence in this record of service failures by applicant, due to lack of a northern terminal, such a contention would have weight. Since there is no such evidence, the weight is lacking.

The Commission is therefore of the opinion and finds that applicant has not kept its books of account in the manner and form required by the Commission, that this fault can be corrected, that no relief should be granted under this application until such correction has been made, that public convenience and necessity for the proposed extension has been established and that no useful purpose can be served by requiring applicant to try the same issue a second time. The following order will

embody these conclusions.

Santa Cruz Motor Express, Inc., 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, such rights 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 as to the number of rights which may be given.

O R D E R

Application having been filed, public hearings having been held thereon and the Commission being of the opinion and finding that the public interest and public convenience and necessity so require; therefore,

IT IS ORDERED that:

1. By supplemental order to be issued herein upon compliance by applicant with paragraphs numbered 3 and 4 of this order, the Commission will grant to the Santa Cruz Motor Express, Inc., a California corporation, a certificate of public convenience and necessity 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 property as set forth in Appendix "A" hereto attached and by this reference made a part hereof.

2. In providing service pursuant to the authority to be granted in such supplemental order applicant shall comply with

the following service regulations:

- a. Within thirty days after the effective date of such order, applicant shall file a written acceptance of the certificate therein granted;
  - b. Within sixty days after the effective date thereof, and upon not less than five days' notice to the Commission and the public, applicant shall establish the service herein authorized and comply with the provisions of General Order No. 80 by filing in triplicate and concurrently making effective tariffs satisfactory to the Commission.
3. Within thirty days after the effective date of this order applicant shall file with the Commission a verified written analysis of all of its unpaid accounts for insurance showing properties covered, time and duration of coverages and the legal owners and equitable owner, if different, of property covered and all other pertinent matter.
4. Within sixty days after the effective date of this order applicant shall file with this Commission a verified balance sheet and a profit and loss statement covering a 12-month period giving effect to the following:
- a. The cost of shop and garage equipment and the depreciation reserve accrued thereon shall be listed in such balance sheet under fixed assets;
  - b. Vehicular equipment shall be shown at actual purchase cost with a deduction for accrued depreciation;
  - c. In calculating depreciation, service lives shall be estimated which give effect to actual experience as far as possible and which will eliminate understatement of applicant's fixed assets;
  - d. An account entitled "Organization and Franchise Costs", and amounting on June 30, 1955, to \$22,123.03 shall be eliminated from applicant's assets;
  - e. An account entitled "Long Term Notes Payable" and amounting on June 30, 1955, to \$9,624.21 is hereby determined to be an obligation of

applicant's stockholders and not of applicant and shall be eliminated from the corporate liabilities of applicant. Payments thereon shall not be included in operating expenses;

f. An account entitled "Reserve for Contingencies" and amounting on June 30, 1955, to \$3,263.78 and the exact nature of which is unknown to the Commission, shall be either distributed or eliminated as good accounting practice may require.

5. The books of account of applicant shall hereafter be kept, and all reports to this Commission shall be made, in accordance with the Commission's uniform system of accounts for highway common carriers.

6. Subsequent to the issuance of a supplemental order as provided in paragraph 1 of this order, all operating authority heretofore possessed by applicant as a highway common carrier, and which duplicates authority herein granted shall be revoked and canceled, such revocation and cancellation to be effective simultaneously with the establishment of service under the present, and said supplemental orders.

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

Dated at San Francisco, California, this 70<sup>th</sup> day of December, 1955.

John E. Mitchell  
President

Justin D. Casella

Ralph Intermine

Arthur J. Doherty

P. Hardy  
Commissioners

Decision No. 52393  
Dated December 20, 1953  
Application No. 35722

APPENDIX A

The certificate of public convenience and necessity granted to Santa Cruz Motor Express, Inc.; by the above-numbered decision, authorizes it to transport general commodities between San Francisco and East Bay points from San Pablo on the north to Hayward on the south including San Pablo and Hayward, on the one hand, and Santa Cruz and points within a 10-mile radius of Santa Cruz, on the other hand, subject to the following conditions:

Applicant shall not transport any shipments of:

1. Used household goods and personal effects.
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps) ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses, bus chassis.
3. Livestock, viz.: bucks, bulls, calves, cattle, cows, dairy cattle, ewes, goats, hogs, horses, kids, lambs, oxen, pigs, sheep, sheep camp outfits, sows, steers, stags or swine.
4. Commodities requiring the use of special refrigeration or temperature control in specially designed and constructed refrigerated equipment.
5. Liquids, compressed gases, commodities in semiplastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semitrailers or a combination of such highway vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper-type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.