

ORIGINAL

Decision No. 58273

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ARROYO GRANDE TRUCK COMPANY to buy and of CHARLES E. HOPPE, Trustee in Bankruptcy of JOHN R. KRIEG, doing business as KRIEG TRUCK LINES, Bankrupt, to sell, certain highway common carrier operating rights.

Application No. 40877

O P I N I O N

Charles E. Hoppe, Trustee in Bankruptcy of John R. Krieg, doing business as Krieg Truck Lines, Bankrupt, requests authority to sell and transfer and Arroyo Grande Truck Company requests authority to purchase and acquire certain highway common carrier operative rights.

The operative rights to be transferred authorize the transportation of general commodities between San Francisco, Richmond, King City, and intermediate points, on the one hand, and King City, Santa Margarita, and intermediate points, excluding King City, on the other hand, and locally between all points and places between King City and Santa Margarita, excluding King City. They also authorize the transportation of commodities such as fertilizer, insecticides, fungicides, and certain miscellaneous commodities between San Jose, on the one hand, and Oakland, Berkeley, and points on U. S. Highways 101 and 101 By-Pass between San Jose and San Francisco, on the other hand. Also the authority to transport sugar between Crockett, on the one hand, and Sunnyvale, Palo Alto, Redwood City and San Jose, on the other hand.

By Decision No. 57034 dated July 22, 1958, said operative rights, upon the request of Charles E. Hoppe, the then Receiver, and now Trustee, of the estate of John R. Krieg, were suspended to "protect the rights and to enable the Receiver to sell the certificates subject to its approval of the Commission". The suspension authority expires as of April 21, 1959.

According to the terms of the agreement, a copy of which is attached to the application, the operative rights could be transferred for a cash consideration of \$6,000. The sale was confirmed by the Referee in Bankruptcy on December 5, 1958.

Buyer, Arroyo Grande Truck Company, is presently authorized to transport specified commodities from the San Francisco Bay area to Oxnard, Point Mugu, Thousand Oaks, and Castaic Junction. The acquisition of the Krieg rights would provide Buyer with general commodity authority in a portion of the territory now restricted to the transportation of limited commodities. As of November 30, 1958, Buyer indicated a net worth of \$48,739.95. For the six months ending November 30, 1958, Buyer realized a net profit of \$32,002.70.

After consideration the Commission is of the opinion and so finds that the proposed sale would not be adverse to the public interest. A public hearing is not necessary.

Arroyo Grande Truck Company 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 modified or canceled 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 and the Commission being informed in the premises,

IT IS ORDERED:

(1) That on or before September 1, 1959, Charles E. Hoppe, Trustee in Bankruptcy of John R. Krieg, doing business as Krieg Truck Lines, Bankrupt, is hereby authorized to transfer and sell and Arroyo Grande Truck Company is hereby authorized to purchase and acquire the operative rights granted by Decision No. 53307 in Application No. 37993 and Decision No. 53413 in Application No. 36114 according to the terms of the agreement attached to the application herein.

(2) That, within thirty days after the consummation of the transfer herein authorized, Arroyo Grande Truck Company shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

(3) That, on not less than five days' notice to the Commission and to the public, applicants shall, effective concurrently with the consummation of such transfer, amend or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved, including joint rate

arrangements, to show that Charles E. Hoppe, Trustee in Bankruptcy of John R. Krieg, doing business as Krieg Truck Lines, Bankrupt, has withdrawn or canceled and Arroyo Grande Truck Company has adopted or established as its own said rates, rules and regulations. The tariff filing made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

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

Dated at San Francisco, California, this 14th day of April, 1959.

E. Lynn Fox
 President

John L. [unclear]
William [unclear]
Herbert [unclear]
Ernest [unclear]
 Commissioners