

Decision No. 13351

ORIGINAL

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

In the Matter of the Application of)
A. E. DONOVAN,)
for an order permitting the transfer)
of certain operating rights to Dono-)
van Transportation Company, a corpora-)
tion, and the Application of)
DONOVAN TRANSPORTATION COMPANY,)
a corporation, to issue and sell its)
securities.)

Application Number 9773

In the Matter of the Application of)
HUGH M. WILCOX and M. J. WEAKLY,)
for an order permitting the transfer)
of operating rights to A. E. Donovan)

Application Number 9777

Collamer A. Bridge, for Applicants.

BY THE COMMISSION :

OPINION

In Application Number 9777 Hugh M. Wilcox, M. J. Weakly and A. E. Donovan doing business under the firm name and style of Donovan Transportation Company, ask permission to transfer certain operative rights and properties to A. E. Donovan.

In Application Number 9773 A. E. Donovan asks permission to transfer such rights and properties to Donovan Transportation Company, a corporation, and Donovan Transportation Company asks permission to issue \$25,000.00 of its common capital stock.

A public hearing in these two proceedings was held before Examiner Williams in Los Angeles on March 14, 1924, at which time the matters were consolidated for the purpose of receiving evidence and for decision.

The record shows that Hugh M. Wilcox, M. J. Weakly and A. E. Donovan, doing business as co-partners under the firm name

and style of Donovan Transportation Company are engaged in operating auto trucks for the transportation of baggage, express and freight between Redondo Beach and Santa Monica and intermediate points. It appears that the certificate of public convenience and necessity to operate over this route was first acquired by A.E. Donovan under authority granted by the Commission in Decision Number 11913 dated April 6, 1923. Thereafter the Commission by Decision Number 12451 dated August 2, 1923, authorized the transfer of such operative rights to a partnership composed of A. E. Donovan, Hugh M. Wilcox and M. J. Weakly. It now appears that the co-partnership has been dissolved and application therefore is made to re-convey the rights to A. E. Donovan, subject to the terms and conditions set forth in the agreement filed as an exhibit in Application Number 9777.

Upon receiving such rights and properties A. E. Donovan proposes to transfer them to a corporation known as Donovan Transportation Company, which he has caused to be organized for the purpose of receiving and operating such rights and properties. The Articles of Incorporation of Donovan Transportation Company, a copy of which is on file in Application Number 9773, shows that the corporation was organized on or about January 2, 1924, with an authorized capital stock of \$50,000.00 divided into 50,000 shares of the par value of \$1.00 each. The company proposes at this time to issue \$25,000.00 of its stock, of which amount it is planned to issue \$4,850.00 to W. M. Atkinson in payment for a local transfer business in the cities of Redondo Beach, Torrance, San Pedro, Venice and elsewhere and certain properties consisting of a Fageol 1923 $3\frac{1}{2}$ -4 ton truck, a Ford 1923 one ton truck and a Ford 1922 light transfer, and to deliver \$15,000.00 in payment for the rights and properties of A. E. Donovan.

Following the hearing in this matter, A. E. Donovan filed with the Commission in Application Number 9773, a statement in

which he reports that he expended \$19,225.00 in connection with the business of Donovan Transportation Company and for property and equipment. An analysis of this statement shows that the total amount is made up of the following items :-

Property and equipment	\$ 6,500.00
Materials and supplies, etc.	1,000.00
Furniture and fixtures	800.00
Attorney's fees, witness fees and organization expenses	1,150.00
Advertising	1,000.00
Rents	2,000.00
Bookkeeper's salary	1,275.00
Officer's salaries	1,700.00
Driver's wages	2,800.00
Gasoline, oil and repairs	<u>1,000.00</u>
Total	<u>\$ 19,225.00</u>

In addition to the properties contained in the foregoing tabulation, it appears that if the proposed transfers are effected the corporation will also acquire three leases of warehouse buildings in San Pedro, Venice and Redondo Beach. The San Pedro lease runs for a period of approximately one year from the present time and provides for a monthly rental of \$125.00. Under this lease the lessee has an option of renewal for two years at a monthly rental of \$150.00 during the first year and \$175.00 the second year. The lease for the properties in Venice runs for a period of approximately two years and involves a payment for rental of \$50.00 a month. The Redondo lease extends for a period of one year at a rental of \$50.00 a month.

In making an order authorizing the issue of stock in payment of the properties of A. E. Donovan, we believe that there should be eliminated from the foregoing tabulation approximately \$8,775.00 representing amounts expended for rents, book-keepers and officer's salaries, driver's wages and gasoline, oil and repairs. In our opinion, these expenditures are operating charges and should be paid out of the current revenues of the business. The order herein will therefore authorize Donovan Transportation Corporation

to issue such an amount of stock as is equal to the reported cost of the equipment, materials and supplies and organization expenses plus an allowance for working capital.

The corporation proposes to issue and sell the remaining \$5,150.00 of stock for which application is made, at par, for the purpose of providing funds to pay in part the cost of constructing a warehouse in San Pedro or Wilmington. It reports that negotiations are now being carried on for the purpose of acquiring a lot, upon which it is planned to construct a one story fireproof warehouse 80 x 100 feet in dimension, all at an estimated cost of approximately \$13,000.00.

While applicant proposes to sell its stock at par, it asks permission to pay, if necessary, a commission of not exceeding 20 per cent of the par value of stock sold for the purpose of paying commissions and selling expenses. The testimony of A. E. Donovan, applicant's President, indicates, however, that the officers of the corporation first intend to attempt to dispose of the stock themselves and that only in the event they are unsuccessful will a stock salesman be employed to sell such stock. It therefore appears that it may be unnecessary for the corporation to pay a commission for the sale of its stock. The order herein will authorize the sale of stock at par net to the corporation. In the event it is found that it is impossible to dispose of the stock under these conditions, the corporation may file a supplemental petition with the Commission requesting a modification of the order so as to permit the payment of a commission for selling the stock.

O R D E R

Application having been made to the Railroad Commission for an order authorizing the transfer of operative rights and properties and the issue of \$25,000.00 of stock, a public hearing

having been held and the Railroad Commission being of the opinion that the money, property or labor to be procured or paid for through the issue and sale of such stock is reasonably required for the purposes specified herein and that the expenditures for such purposes are not in whole or in part reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED that Hugh M. Wilcox, M. J. Weakly and A. E. Donovan, doing business under the firm name and style of Donovan Transportation Company, be, and they are hereby, authorized to transfer the operative rights and properties to A. E. Donovan, subject to the terms and conditions of the agreement attached to Application Number 9777.

IT IS HEREBY FURTHER ORDERED that A. E. Donovan be, and he is hereby, authorized to transfer such rights and properties to Donovan Transportation Company, a corporation, and Donovan Transportation Company be, and it is hereby, authorized to issue \$25,000.00 of its common capital stock.

The authority herein granted is subject to the following conditions :-

1. Of the \$25,000.00 of stock herein authorized to be issued, \$11,000.00 may be delivered in full payment of the rights and properties of A. E. Donovan, to which reference is made in the foregoing opinion, and \$4,850.00 may be delivered in payment for the properties of W. M. Atkinson, to which reference is also made in the foregoing opinion.
2. The remaining \$9,150.00 of the stock herein authorized may be sold at not less than par net to the corporation and the proceeds used for the purpose of acquiring the lot and of con-

structing the warehouse building, as set forth in the preceding opinion.

3. Applicant shall keep such record of the issue, sale and delivery of the stock herein authorized and of the disposition of the proceeds as will enable it to file on or before the 25th. day of each month a verified report, as required by the Railroad Commission's General Order Number 24, which order in so far as applicable, is made a part of this order.
4. Hugh M. Wilcox, M. J. Weakly and A. E. Donovan shall cancel immediately all tariffs and time schedules now on file with the Railroad Commission, such cancellation to be in accordance with the provisions of General Order Number 51 and other regulations of the Railroad Commission.
5. Donovan Transportation Company, a corporation, shall file immediately tariffs and time schedules in its own name or attach as its own, tariffs and time schedules heretofore filed by Hugh M. Wilcox, M. J. Weakly and A. E. Donovan, all such tariffs and time schedules to be identical with those heretofore filed by H. M. Wilcox, M. J. Weakly and A. E. Donovan.
6. The rights and privileges which are herein authorized to be transferred may not hereafter be discontinued, sold, leased, transferred or assigned unless the written consent of the Railroad Commission to such discontinuance, sale, lease, transfer or assignment first has been secured.
7. No vehicle may be operated by Donovan Transportation Company unless such vehicle is owned by the com-

pany or is leased for a specified amount on a trip or term basis, the leasing of the equipment not to include the services of a driver or operator. All employment of drivers or operators of these cars shall be made on the basis of a contract by which the driver or operator shall bear the relation of an employee of the transportation company.

8. The authority herein granted to transfer rights and properties and to issue stock will become effective upon the date hereof but will expire on December 31, 1924.

DATED at San Francisco, California, this 29th day of March, 1924.

O. Cheney

H. A. ...

Irving Martin

Edwin Shore

J. P. Whittney

Commissioners.