

LEM

Decision No. 15952.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

ORIGINAL

In the Matter of the Application of)
LOUIS T. FLETCHER, ELMER TREMBLE,)
RAMOND M. DAVIS and H.E. SMITH to)
sell, and MOTOR SERVICE EXPRESS, to)
purchase an automobile freight line)
operating between Los Angeles and)
other points, and also for authority)
to issue stock.)

Application No. 12244

Henry J. Bischoff, for applicants.

BY THE COMMISSION:

O P I N I O N

In this application Louis T. Fletcher and Elmer Tremble, co-partners doing business under the firm name and style of Service Motor Express, and Ramond M. Davis and H.E. Smith, co-partners doing business under the firm name and style of Coachella Valley Transportation Company, ask permission to sell and transfer their operative rights and certain personal property to Motor Service Express, a corporation, and Motor Service Express asks permission to issue its stock in the amounts and for the purposes hereinafter set forth.

The application shows that Louis T. Fletcher and Elmer Tremble and Ramond M. Davis and H.E. Smith are engaged in the operation of auto trucks for the transportation of freight between Los Angeles and various points in Southern California, operating along the routes and under the authority granted by the Commission as follows:-

<u>Owners of Right</u>	<u>Decision</u>	<u>Date</u>	<u>Route</u>
Fletcher & Tremble	6966	Dec.19,1919	Between Los Angeles and San Bernardino, the authority granted covering through service between terminals, no local business to be handled between intermediate points.
Fletcher & Tremble	7328	Mch.30,1920	Between Los Angeles and Venice, Ocean Park and Santa Monica.
Fletcher & Tremble	8403	Nov.30,1920	Between Los Angeles and Riverside and between Riverside and San Bernardino, the authority granted covering through service between these points, no local service along the routes to be given.
Fletcher & Tremble	15068	June 15,1925	Between Los Angeles and La Habra, Fullerton and Anaheim.
Davis & Smith	11867	Mch.30,1923	Between Los Angeles and Riverside, Colton, Banning and Mecca, with interlocal service between Banning and Mecca, and between Colton and Banning via San Timoteo Canyon and between Riverside and Beaumont via Moreno and Box Springs Grade.

The co-partners now propose to transfer their business, rights and operations to a corporation, named Motor Service Express, they have caused to be organized for the purpose of receiving such business, rights and operations. Under the decisions of the Commission heretofore given, no authority has been conveyed to the co-partners to consolidate the various routes now being operated, nor is such authority requested in this proceeding, the application, in this respect, involving only a request to transfer the ownership of the operative rights from the individuals to the corporation. The granting of the present request, then, should not be construed as giving the corporation permission to consolidate, link up or merge the various routes described in the preceding paragraph and to operate them as one unified system. Before the Commission can make such an order it will be necessary for the corporation to come

before it in a formal proceeding seeking a certificate of public convenience and necessity to operate the various routes as one, for the reason that such a consolidation would involve an expansion of the various rights now held by the co-partners.

The Articles of Incorporation of Motor Service Express, a copy of which is attached to the application, show that it was organized on or about November 21, 1925 with an authorized capital stock of \$50,000.00, consisting of 500 shares of the par value of \$100. each and divided equally into common and eight percent. cumulative preferred stock.

The corporation asks permission to issue all of its authorized capital stock and to deliver such an amount of the common stock as the Commission might determine as reasonable in payment for the property of the co-partners, described in Exhibit "A", and to sell the remaining common stock and the preferred stock to provide working capital of \$10,000.00 and to finance the cost of auto trucks and trailers.

The property to be acquired from the co-partners consists of office furniture and fixtures, tools and equipment and garage supplies. That to be acquired from Louis T. Fletcher and Elmer Tremble is said to have cost \$4,856.80 and to have a present value of \$4,280.40 and that from Ramond M. Davis and H.E. Smith to have cost \$1,875.00 and to have a present value of \$1,415.00. The total reported cost of the property aggregates \$6,731.80 and the present value \$5,695.40.

The corporation does not propose to acquire any auto trucks or trailers at this time, but plans to lease the necessary equipment from the co-partners. To this end it has entered into leases, dated January 13, 1926, with Louis T. Fletcher and Elmer Tremble and with Ramond M. Davis and H.E. Smith. Copies of these leases have been filed with the Commission in this proceeding as Exhibits "3" and "4".

These exhibits show the equipment to be operated by applicant under the leases as follows:-

Leased from Fletcher & Tremble

One 3-1/2 ton 6-wheel Mack Truck
Three 3-1/2 ton Mack trucks
Three 2-1/2 ton Mack trucks
Three 2 ton Reo trucks
Two 1-1/4 ton Reo trucks
Four 1 ton Ford trucks
One 1/2 ton Ford truck
One 2 ton Seldon truck
One 2 ton G.M.C. truck
One 2 ton Autocar truck
One 2 ton White truck
Three 5 ton Newcomer trailers
One 4 ton Newcomer trailer
Two 3 ton Pike trailers
One 3 ton Homemade trailer

Leased from Davis & Smith

One 3-1/2 ton 6-wheel Mack truck
Two 2-1/2 ton Mack trucks
One 5 ton Moreland truck
One 3 ton Moreland truck
Two 2 ton Autocar trucks
One 1 ton Reo truck
One 5 ton Utility trailer
One 2-1/2 ton Utility trailer
One 4 ton Reliance trailer
Two 1 ton Army trucks

Under the proposed leases the corporation will pay as rental to Fletcher and Tremble the sum of \$1,361.29 monthly and to Davis and Smith the sum of \$735.98 monthly. The monthly rental is the equivalent of two percent. on the original cost of the equipment leased. It is of record that applicant corporation will not assume any of the debts of the co-partnerships. The leases provide that applicant corporation shall during the term of the leases have the sole possession, custody and control of the trucks and trailers mentioned in said leases.

There has also been filed with the Commission copies of agreements under the terms of which applicant corporation is given an option to purchase said trucks and trailers at cost equal to the present value of said trucks and trailers less the amount of rent paid. The original cost and present value of the trucks and trailers which Service Motor Express, a co-partnership, has agreed to lease to applicant corporation is reported at \$68,064.56 and the present value at \$38,550.00. The original cost and the present value of the trucks and trailers which Coachella Valley Transportation Company has agreed to lease to applicant corporation is reported at \$36,799.30 and the present value at \$17,000.00.

Financial reports have been filed by both co-partnerships. One of the reports covers eleven months, the other twelve months operation. The statements show that the combined net earnings of the systems, which would have been available for payments, under the leases, aggregated \$26,661.82, as compared with a rental charge of \$24,431.26.

Although the company asks permission to use proceeds from the sale of the stock to acquire trucks and trailers, it did not make a definite showing of the proposed expenditures for this purpose. Moreover, it seems to us that it is the company's intention to use the leased equipment only, at first, and to purchase additional equipment as the need for it arises.

In view of the rent which applicant corporation proposes to pay for equipment, we believe that it should not at this time be permitted to issue any preferred stock and that the issue of common stock be limited to \$15,700.00, as permitted by the order herein. \$5,700.00 of this stock may be delivered in payment for the miscellaneous equipment set forth in Exhibit "A" and in Exhibit "B" and \$10,000.00 sold and the proceeds used for working capital. If it develops that the equipment which applicant corporation proposes to lease is inadequate, it may later file another application for permission to issue stock.

ORDER

Application having been made to the Railroad Commission for an order authorizing Louis T. Fletcher and Elmer Tremble and Ramond M. Davis and H.E. Smith to transfer operative rights and certain personal properties to Motor Service Express, a corporation, and authorizing Motor Service Express, a corporation, to issue stock, a public hearing having been held before Examiner

Fankhauser, and the Railroad Commission being of the opinion that the application should be granted, as herein provided, and that the issue of \$15,700.00 of common stock is reasonably required for the purposes specified herein:

IT IS HEREBY ORDERED that Louis T. Fletcher and Elmer Tremble, co-partners doing business under the firm name and style of Service Motor Express, and Ramond M. Davis and H.E. Smith, co-partners doing business under the firm name and style of Coachella Valley Transportation Company, be, and they are hereby, authorized to transfer to Motor Service Express, a corporation, free and clear of all indebtedness, the personal properties described in Exhibit "A" attached to the application and the operative rights to which reference is made in the foregoing opinion, permitting the transportation of freight along the following routes:-

1. Between Los Angeles and San Bernardino, for the operation of through service between terminals only, no local business to be handled between intermediate points.
2. Between Los Angeles and Venice, Ocean Park and Santa Monica.
3. Between Los Angeles and Riverside and between Riverside and San Bernardino for the operation of through service between terminals only, no local business to be handled between intermediate points.
4. Between Los Angeles and La Habra, Fullerton and Anaheim.
5. Between Los Angeles and Riverside, Colton, Banning and Mecca, with interlocal service between Banning and Mecca, and between Colton and Banning via San Timoteo Canyon and between Riverside and Beaumont via Moreno and Box Springs Grade.

IT IS HEREBY FURTHER ORDERED that Motor Service Express, a corporation, be, and it is hereby, authorized to issue, on or before December 31, 1926, \$15,700.00 of its common capital stock and to deliver not exceeding \$5,700.00 thereof to Louis Fletcher and Elmer Tremble and Ramond M. Davis and H.E. Smith in full payment of the personal property and operative rights herein author-

ized to be transferred, and to sell the remaining \$10,000. for cash at not less than par and to use the proceeds for working capital.

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

1. No authority is hereby conveyed for the consolidation, enlargement or expansion of any operative rights beyond those heretofore held by Louis T. Fletcher and Elmer Tremble and by Ramond M. Davis and H.E. Smith.
2. Louis T. Fletcher and Elmer Tremble and Ramond M. Davis and H. E. Smith shall cancel immediately all time schedules, tariffs, rates and classifications now on file with the Railroad Commission, and Motor Service Express, a corporation, shall file immediately new time schedules, tariffs, rates and classifications, or adopt as its own, the time schedules, tariffs, rates and classifications heretofore filed with the Commission by Louis T. Fletcher and Elmer Tremble and Ramond M. Davis and H.E. Smith, all such new time schedules, tariffs, rates and classifications to be identical with those heretofore filed with the Commission, such cancellation and filing to be in accordance with the provisions of General Order No. 51 and other regulations of this Commission.
3. Motor Service Express, a corporation, hereafter shall not transfer, assign, lease, sell, hypothecate or discontinue the rights and privileges it is herein authorized to acquire without the written consent of this Commission.

4. No vehicles may be operated by Motor Service Express, a corporation, unless such vehicles are owned by such corporation or are leased by it 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 leased cars to be on a basis of a contract whereby such drivers or operators shall assume the status of employees of Motor Service Express.

5. Motor Service Express shall keep such record of the issue 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 No. 24, which order insofar as applicable, is made a part of this order.

IT IS HEREBY FURTHER ORDERED that the authority herein granted to transfer operative rights will become effective upon the date hereof, and that the authority to issue stock will become effective when Motor Service Express, a corporation, has filed in satisfactory form certified copies of duly and legally executed leases and option agreements substantially in the same form as those filed in this proceeding and referred to in this decision, together with a duly and legally executed stipulation agreeing that Motor Service Express, a corporation, its successors, or assigns, will never urge before the Commission as a basis for the increase of its rates, the value of the properties referred to in the foregoing opinion, or the rent which said corporation has agreed to pay for said properties.

IT IS HEREBY FURTHER ORDERED that the application insofar as it involves the issue of \$34,300.00 of preferred stock be, and it is hereby, dismissed without prejudice.

DATED at San Francisco, California, this 8th day of February, 1926.

H. R. Bunker

Ernest Woods
Leon White

Commissioners.