

Decision No. 21373

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 UNITED MOTOR TRANSPORT LINES, INC.,)
 for authority to purchase and acquire)
 the right of Oscar Schneider, Walter)
 Schneider and Frank Schneider to oper-)
 ate an auto-truck line for the trans-)
 portation of property, for compensation,)
 between Auburn and Higgins Corner, and)
 intermediate points; and of Oscar)
 Schneider, Walter Schneider and Frank)
 Schneider to sell and transfer said)
 property to said United Motor Transport)
 Lines, Inc.; and of said United Motor)
 Transport Lines, Inc. to issue and sell)
 ten (10) shares of its capital stock in)
 exchange for said operative right.)

ORIGINAL

Application No. 15746.

Sanborn & Roehl and De Lancey C. Smith,
 for Applicants.

BY THE COMMISSION:

OPINION

In the above entitled matter the Railroad Commission is asked to make an order authorizing Oscar Schneider, Walter Schneider and Frank Schneider to transfer to United Motor Transport Lines, Inc. an operative right permitting the operation of an automobile truck line, as a common carrier of freight, between Auburn and a point on the Auburn-Grass Valley highway known as Higgins Corner, and intermediate points, and authorizing United Motor Transport Lines, Inc. to issue 10 shares of its common capital stock, of the aggregate par value of \$1,000.00 in payment therefor, and for such other and further order as may seem proper.

Heretofore, by Decision No. 20834, dated March 4, 1929, in Application No. 15341, the Commission authorized United Motor Transport Lines, Inc. to issue \$70,000.00 of its common capital stock in payment for properties of Oscar Schneider, Walter Schneider and Frank Schneider,

which included the right to operate an automobile truck line as a common carrier of property, for compensation, between Sacramento and Auburn and intermediate points, via Roseville, Rocklin, Loomis, Penryn and Newcastle, and between Sacramento and Wheatland and intermediate points, except Lincoln, via Roseville and Sheridan and the right to consolidate and unify such operations so as to permit through service between all the termini and intermediate points, except Lincoln.

At the time of the making of Decision No. 20834, there was pending before the Commission a proceeding, Application No. 11332, involving a request by Oscar Schneider, Walter Schneider and Frank Schneider for permission to extend their operations so as to include service between Auburn and a point about five miles south of Grass Valley known as Forest Springs service station. Thereafter, on May 20, 1929, the Commission made its decision, No. 21123, in said Application No. 11332, permitting the operation by Oscar Schneider, Walter Schneider and Frank Schneider of an automobile truck line as a common carrier of freight between Auburn and a point on the Auburn-Grass Valley highway known as Higgins Corner, and intermediate points, such operation to be conducted in addition to and as a portion of the operations theretofore conducted between Sacramento and Auburn.

The present application shows, however, that pursuant to Decision No. 20834, Oscar Schneider, Walter Schneider and Frank Schneider did on March 30, 1929, prior to the date of Decision No. 21123, transfer to United Motor Transport Lines, Inc. the operative right permitting the operation between Sacramento and Auburn. Because the order in said Decision No. 21123 provided that the operations between Auburn and Higgins Corner be conducted as a part of the line between Sacramento and Auburn, applicants herein propose to cause the transfer of the Auburn-Higgins Corner right to the corporation so that the entire line will be under one ownership.

In connection with the transfer, the corporation proposes to issue \$1,000.00 of common stock. Information on file with the

Commission indicates that there was expended in acquiring the right approximately \$775.10, consisting of \$550.00 for attorneys' fees, \$50.10 for attorneys' expenses and \$175.00 covering the time and expenses of two solicitors, transportation expenses, witness fees, and like items. In addition there is filed a statement, in detail, of the cost of constructing a freight shed at Higgins Corner which, it appears, will also be transferred to the corporation. This cost is reported at \$325.65.

In authorizing the transfer of the operative right, the Commission wishes to place the purchaser upon notice that "operative rights" do not constitute a class of property which should be capitalized or used as an element of value in determining reasonable rates. 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. In the present case, however, it clearly appears that at least \$775.00 was actually expended in acquiring the operative right and we believe that under these conditions we might properly authorize the issue by the corporation of stock of like amount in acquiring the right. The remainder of the stock herein applied for may be issued to pay in part for the freight shed to which reference is herein made.

ORDER

Application having been made to the Railroad Commission for an order authorizing the transfer of operative rights and the issue of stock, and the Commission being of the opinion that this is not a matter in which a public hearing is necessary and that the application should be granted, as herein provided, and that the issue of stock is reasonably required for the purpose specified herein, which purpose is not in whole or in part reasonably chargeable to operating expenses or income,

IT IS HEREBY ORDERED that Oscar Schneider, Walter Schneider

and Frank Schneider be, and they hereby are, authorized to transfer to United Motor Transport Lines, Inc. the certificate heretofore granted them by Decision No. 21123, dated May 20, 1929, in Application No. 11332, permitting the operation of an automobile truck line as a common carrier of freight between Auburn and a point known as Higgins Corner on the Auburn-Grass Valley highway, and the freight shed at Higgins Corner referred to in the foregoing opinion.

IT IS HEREBY FURTHER ORDERED that United Motor Transport Lines, Inc. be, and it hereby is, authorized to acquire the operative right herein authorized to be transferred and to conduct its operations under such right as an extension of its present operations between Sacramento and Auburn, and to issue in acquiring such right and the freight shed above referred to, \$1,000.00 of its common capital stock.

The authority herein granted is subject to the following conditions:

(1) The consideration to be paid for the operative right herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as a measure of value of said property for rate fixing or any purpose other than the transfer herein authorized.

(2) Oscar Schneider, Walter Schneider and Frank Schneider and United Motor Transport Lines, Inc. shall immediately make such tariff and time schedule filings as are required by the Railroad Commission in its General Order No. 80.

(3) United Motor Transport Lines, Inc., in recording this transaction on its books of account, may charge not more than \$775.10 to Account No. 200 - "Intangibles."

(4) The rights and privileges herein authorized to be transferred may not hereafter be sold, leased, transferred or assigned, nor service thereunder discontinued by United Motor Transport Lines, Inc. unless written consent of the Railroad Commission has first been secured.

(5) No vehicle may be operated by United Motor Transport Lines, Inc. under the authority herein granted unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

(6) United Motor Transport Lines, Inc. shall keep such record of the issue of the stock herein authorized as will enable it to file, within 30 days thereafter, 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.

(7) The authority herein granted shall become effective upon the date hereof.

DATED at San Francisco, California, this 18th day of July, 1929.

W. J. ...

Leon ...

W. J. ...

Commissioners.