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ORIGINAL

Decision No. 21634.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 CONSOLIDATED MOTOR TRANSPORT COMPANY,)
 a corporation, for authority to issue)
 and sell Four Hundred and Eighty-seven)
 (487) Shares of its Capital Stock, and)
 to purchase and acquire the rights of)
 CONSOLIDATED MOTOR FREIGHT LINES, INC.,)
 a corporation, to operate auto-truck)
 lines for the transportation of pro-)
 perty, for compensation, between Oak-)
 land and Richmond, California, and in-)
 termediate points, and between Oakland)
 and San Leandro and Hayward, California,)
 and intermediate points, together with)
 certain operative property and assets;)
 and of said CONSOLIDATED MOTOR FREIGHT)
 LINES, INC., to sell and transfer the)
 said property to said CONSOLIDATED)
 MOTOR TRANSPORT COMPANY.)

Application No. 15918.

Sanborn & Roehl and DeLancey C. Smith,
 by H. H. Sanborn, for applicants;
 Clarence W. Morris, for certain stockholders,
 protestant.

BY THE COMMISSION:

OPINION

In this application the Railroad Commission is asked to make its order authorizing Consolidated Motor Freight Lines, Inc. to sell and transfer its operative rights and properties, free and clear of all encumbrances, to Consolidated Motor Transport Company, a corporation, and authorizing Consolidated Motor Transport Company to purchase and acquire such operative rights and properties and to issue \$48,000.00 of its common capital stock in payment, and to issue \$700.00 of its common capital stock to its incorporators.

The application shows that Consolidated Motor Freight Lines, Inc. is engaged in the business of operating auto truck lines, as a common carrier of property, between Oakland and Richmond, and intermediate points, and between Oakland and San Leandro and Hayward, and intermediate points, and in the general drayage, trucking, transfer, delivery, forwarding, packing and storing business in said communities and in the City and County of San Francisco.

It appears that Consolidated Motor Freight Lines, Inc. has not been successful in the operation of its business. During the year 1927, it reported operating revenues of \$83,391.71, operating expenses of \$130,989.16, and net operating losses of \$47,597.45; during the year 1928, operating revenues of \$68,245.58, operating expenses of \$103,362.70 and net operating losses of \$35,117.12; and during the first six months of 1929, operating revenues of \$36,346.95, operating expenses of \$51,456.67 and net operating losses of \$15,109.72. On June 30, 1929, it reported notes and other liabilities of \$72,834.38 and an accumulated deficit of \$103,254.65. Its assets and liabilities, on that date, are reported in Exhibit "A" as follows:-

<u>ASSETS</u>		
Plant and equipment		\$131,900.31
Other assets:		
Securities of others	\$25,050.00	
Cash	336.90	
Notes receivable	95.00	
Accounts receivable	16,597.11	
Materials and supplies	<u>2,895.89</u>	44,974.90
Prepayments		953.90
Discount on stock		26,438.25
Deficit		<u>103,254.65</u>
	Total assets.....	<u>\$307,521.01</u>
<u>LIABILITIES</u>		
Capital stock		\$167,795.00
Assessments on stock		16,778.50
Current liabilities:		
Notes payable	\$54,600.00	
Interest accrued	7,224.89	
Accounts payable	<u>11,009.49</u>	72,834.38
Depreciation and other reserves		<u>50,113.13</u>
	Total liabilities.....	<u>\$307,521.01</u>

The record here shows that it has been decided to dispose of the assets of Consolidated Motor Freight Lines, Inc. and to liquidate its affairs. Arrangements have been made to transfer the operative rights and the fixed capital to Consolidated Motor Transport Company, a new corporation organized for the purpose of receiving such properties and thereafter of operating them. The properties to be thus acquired by the new corporation include, according to Exhibit "B", twenty-three trucks and tractors and thirteen trailers, together with miscellaneous garage equipment, tools, supplies and machinery, and two operative rights heretofore acquired by the company under authority granted by the Commission by Decision No. 9421, dated August 25, 1921, in Application No. 6952; one right permitting the transportation of property between Oakland, Fruitvale, Melrose, San Leandro and Hayward, and the other between Richmond and Oakland and intermediate points.

The consideration to be paid by Consolidated Motor Transport Company for the operative rights and properties to be transferred is \$48,000.00, payment to be made by the issue to Consolidated Motor Freight Lines, Inc. of \$48,000.00 of its common capital stock. By virtue of an agreement referred to by witnesses, the \$48,000.00 of stock of Consolidated Motor Transport Company will be acquired by Drayage Service Corporation, which is engaged in a general drayage business. In support of the proposed stock issue, applicants have filed, as Exhibit "B", an appraisal of the properties showing estimated present value of \$48,012.01. No value is claimed for the operative rights.

Having considered the evidence in this matter, it appears to us that the transfer of properties and the issue of stock, as proposed, should be authorized. In permitting the transfer of operative rights, however, we wish to place the purchaser upon notice that such 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.

Though Clarence^{W.} Morris entered an appearance in this matter as a protestant he did not cross-examine applicants' witnesses nor produce any testimony or evidence in support of his protest.

O R D E R

Application having been made to the Railroad Commission for an order authorizing the sale and transfer of operative rights and properties from Consolidated Motor Freight Lines, Inc. to Consolidated Motor Transport Company, and the issue of \$48,700.00 of stock by Consolidated Motor Transport Company, 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 money, property or labor to be procured or paid for through the issue of the stock is reasonably required for the purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED that Consolidated Motor Freight Lines, Inc. be, and it hereby is, authorized to sell and transfer to Consolidated Motor Transport Company, its operative rights and properties referred to in the foregoing opinion and described in Exhibit "B" attached to the application herein, such sale and transfer to be made free and clear of liens, encumbrances and indebtedness.

IT IS HEREBY FURTHER ORDERED that Consolidated Motor Transport Company be, and it hereby is, authorized to purchase and acquire such rights and properties and to issue in full payment \$48,000.00 of its common capital stock, and to issue at par \$700.00 of its common capital stock in payment of organization and incorporation expenses and services.

IT IS HEREBY FURTHER ORDERED that Consolidated Motor Freight Lines, Inc. be, and it hereby is, authorized to discontinue the operation of its auto truck lines as a common carrier under the jurisdiction of this Commission upon the transfer of such lines to, and the operation thereafter by, Consolidated Motor Transport Company.

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

(1) The consideration to be paid for the properties 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 purposes other than the transfer herein authorized.

(2) Consolidated Motor Freight Lines, Inc. shall unite immediately with Consolidated Motor Transport Company in common supplement to the tariffs on file with the Commission, Consolidated Motor Freight Lines, Inc. on the one hand withdrawing and Consolidated Motor Transport Company on the other hand accepting and establishing such tariffs and all effective supplements thereto.

(3) Consolidated Motor Freight Lines, Inc. shall withdraw immediately time schedules filed in its name with the Railroad Commission, and Consolidated Motor Transport Company shall file, in duplicate, in its own name, time schedules covering service heretofore given by Consolidated Motor Freight Lines, Inc., which

time schedules shall be identical with those now on file in the name of Consolidated Motor Freight Lines, Inc., or time schedules satisfactory to the Commission.

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

(5) No vehicle may be operated by Consolidated Motor Transport Company under the authority 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) Consolidated Motor Transport Company shall keep such record of the issue of the stock herein authorized as will enable it to file, within thirty 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) Within sixty days after the transfer of its operative rights, properties and assets, Consolidated Motor Freight Lines, Inc. shall file with the Commission a financial report prepared on the annual report forms prescribed by this Commission covering the period from January 1, 1929 to the date of transfer.

(8) The authority herein granted will become effective ten days from the date hereof.

DATED at San Francisco, California, this 30th day of September 1929.

Thos. B. Lott
E. Scammy
John W. Lott
Leon Whitely
M. A. Linn