

Decision No. 24866.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
ROBT. V. HARDIE,
to sell and Western Truck Lines, Ltd.,
a corporation, to purchase automotive
freight lines, to-wit: operating between
Los Angeles and Bishop and Owens Valley
points; operating between Lone Pine
Station, Lone Pine and Keeler; operat-
ing between Glendale and Los Angeles;
and operating between Los Angeles and
Blythe, all points being in California.)

ORIGINAL

Application No. 17474

In the Matter of the Application of
WESTERN TRUCK LINES, LTD.,
a corporation, to issue stock.)

Application No. 17475

Owen C. Emery, for applicants.

BY THE COMMISSION:

O P I N I O N

In these proceedings the Railroad Commission is asked to authorize Robt. V. Hardie to transfer to Western Truck Lines, Ltd. certain auto truck operative rights and properties and to authorize Western Truck Lines, Ltd. to issue 6,000 shares of stock, at \$10.00 a share, in part payment for such rights and properties, and 640 shares, at \$10.00 a share, to pay indebtedness.

The applications show that Robt. V. Hardie is engaged in operating four auto truck lines for the transportation of passengers and property, conducting his business between Los Angeles and Owens Valley under the name of High Sierra Motor Freight; between Lone Pine Station and Keeler under the name of Lone Pine-

Keeler Auto Stage; between Los Angeles and Glendale under the name of Glendale Interurban Express; and between Los Angeles and Blythe under the name of Los Angeles and Blythe Truck Line. A combined balance sheet of the four operations shows assets and liabilities, as of August 1, 1931, as follows:

<u>A S S E T S</u>		
Franchises		\$7,500.00
Revenue freight cars		46,881.72
Tools and machinery		437.75
Furniture and fixtures		860.54
Cash		1,862.00
Accounts receivable		8,091.10
Materials and supplies		<u>1,322.77</u>
Total Assets		<u>\$66,955.88</u>
<u>L I A B I L I T I E S</u>		
Accounts payable	\$	381.34
Freight advances		143.54
C. O. D.'s		590.03
Notes payable	14,826.55	
Interest accrual		390.67
Reserve for accrued depreciation		17,874.15
Proprietor's account		<u>32,749.60</u>
Total liabilities		<u>\$66,955.88</u>

It appears that Robt. V. Hardie has concluded that his operations can be conducted more economically if transferred to one entity and that he has caused the organization of Western Truck Lines, Ltd. for the express purpose of acquiring his rights and properties. The company is to issue to Robt. V. Hardie in part payment for his properties 6,000 shares of its no par value capital stock at a value of \$10.00 a share, and will assume all indebtedness of Robt. V. Hardie in connection with his properties, or such other number of shares as may be permitted by the Commission.

The operative rights to be transferred were obtained or established by Hardie under the following orders of the Commission:

1. Decision No. 7212, dated March 5, 1920 in Application No. 5409.

In this decision Hardie was authorized to acquire from Mrs. William Wibelitz operating rights permitting the operation of an

automobile truck service for the transportation of freight between Los Angeles, Tropic and Glendale and intermediate points which had been created by William Wibelitz by operation prior to May 1, 1917 and had been confirmed by tariff filings during March, 1919.

2. Decision No. 16712, dated May 12, 1926 in Application No. 12291.

This decision granted Hardie a certificate for a motor truck service on demand between Glendale and Venice, Pasadena, Long Beach, Santa Ana, San Bernardino, Pomona, San Diego, Santa Barbara and Ventura for the transportation of beverage in cases and return of empty containers for Sierra Club Beverage Company.

3. Decision No. 21195, dated June 10, 1929 in Application No. 14544.

This decision granted Hardie a certificate for the establishment of automotive truck freight service for the transportation of freight between Los Angeles and Bishop, serving as intermediate all points between Mojave and Bishop; provided that such service be daily (except Sundays and holidays throughout the year); and provided that no transportation be conducted between Los Angeles and Mojave, or intermediates; and provided further that such service include free pickup or delivery one mile either side of the route traversed on all shipments; and provided further that applicant conduct no local transportation between Lone Pine and Bishop or intermediates; over and along the following route:

State Highway between Los Angeles and Bishop via Mint Canyon, Mojave and Red Rock Canyon.

4. Decision No. 23368, dated April 26, 1930, in Application No. 16479.

In this authorization Hardie was permitted to acquire from G. F. Marsh the operative right established by Marsh prior to May 1, 1917, as evidenced by tariff filings permitting the transportation

of passengers, baggage and freight between Lone Pine, Lone Pine Station and Keeler.

5. Decision No. 23482, dated March 9, 1931 in Application No. 17233.

This decision permitted Hardie to acquire from John C. Matson an operative right originally granted to one A.E. Campbell by Decision No. 8567, dated January 19, 1921, in Application No. 6339 permitting the operation of an automobile service for the transportation of freight, over the main highways and through the following towns:

' Commencing at Blythe, thence to Mecca, thence to Thermal, thence to Coachella, thence to Indio, thence to Palm Springs, thence to Whitewater, thence to Banning, thence to Beaumont, thence to Riverside, thence to Ontario, thence to Pomona, thence to El Monte and thence to Los Angeles.'

The order in Decision No. 8567 reads in part as follows:

'This order grants authority for the transportation of freight originating at Blythe and destined to the communities of Mecca, Thermal, Coachella, Indio, Palm Springs, Whitewater and the communities intermediate between Whitewater and Los Angeles; the authority regarding intermediate points being confined to northbound business originating in the territory between Blythe and Mecca. Authority is also granted for the handling of business originating in Los Angeles and destined to the territory between Mecca and Blythe, but not including the former community, no authority being hereby conveyed for the handling of any southbound business between Los Angeles and Mecca, or points intermediate between such communities.'

In Application No. 7815 this operative right was transferred to Monte Willis and J. G. Dikes, co-partners, who, after operating the line for a short time, sought and obtained from the Commission, in Application No. 8340, authority to transfer the operating right back to Campbell. The latter, in the same proceeding, was granted permission to transfer the operating right to W.T. Murray. The latter, in Application No. 8553, was authorized by the Commission to transfer to E. N. Lein a half interest in the operating right. Lein acquired Murray's interest by Decision No. 13768, issued on Application No. 10231, and by Decision No. 14431, dated January 5, 1925, and issued on Application No. 10694, Lein was authorized to transfer the operating right to Wesley Hefline and Frank E. Duce.

Decision No. 20937 of April 2, 1929, in Application No. 15491, authorized Hefline and Duce to transfer the above described rights to John C. Matson.'

It is not proposed by the purchasing corporation to consolidate or link up the aforementioned operative rights.

As stated, applicant, Western Truck Lines, Ltd. asks permission to issue 6,000 shares of stock at \$10.00 per share. In the applications as originally filed, the company proposed to issue \$28,500.00 of stock to acquire physical properties as the same existed on May 23, 1931 and the balance, \$31,500.00, in payment for operative rights. At the hearing had on September 3, 1931 applicants submitted financial statements as of August 1, 1931 and requested that the amount of stock which the company may be permitted to issue be based on the record as developed at such hearing. Since May 23, 1931, Robt. V. Hardie purchased and sold some equipment. In Exhibit No. 13 the cost of his revenue freight cars as of August 1, 1931 is reported at \$46,881.72. The actual value is reported by applicants at \$31,899.13. In the applications as originally filed, the company proposed to issue \$31,500.00 of stock in payment for operative rights. In some cases the amounts requested for operative rights represented expenditures actually made in acquiring the same, while in other cases estimated values or sums paid by predecessors are reported. The record does not warrant the issue of \$31,500.00 of stock for operative rights.

For the purpose of this proceeding we will allow a cost of \$6,500. for the operative rights, of \$31,899.13 for the revenue freight cars, and of \$12,574.16 for the current and other assets appearing on the balance sheet of August 1, 1931, making a total of \$50,973.29. Outstanding indebtedness is reported at \$16,332.13, which would leave a balance of \$34,641.16 representing, in our opinion, the amount against which Western Truck Lines, Ltd., may issue stock.

We are of the opinion that the corporation should issue its stock on a \$25.00 per share basis. The order herein accordingly will permit the issue of 1,386 shares of stock at \$25.00 a share in payment for the rights and properties of Robt. V. Hardie, and of 256 shares at \$25.00 a share to pay indebtedness to be assumed by the corporation in acquiring such rights and properties. We believe that

the purchasing corporation in recording the transaction on its books of account should charge \$46,881.72 to its plant and equipment account for revenue freight cars to be offset in part by a credit entry to its depreciation reserve account in amount equal to the difference between said figure and the \$31,899.13 allowed for such cars in this decision.

At this time we wish to place Western Truck Lines, Ltd. 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 give to the holder a complete or partial monopoly of a class of business over a particular route. This monopoly feature can be changed or destroyed at any time by the state, which is not in any respect limited in the number of rights which may be given.

O R D E R

Applications having been made to the Railroad Commission for an order authorizing Robt. V. Hardie to transfer auto truck operating rights and properties to Western Truck Lines, Ltd., and authorizing Western Truck Lines, Ltd. to issue 6,640 shares of capital stock at \$10.00 a share, a public hearing having been held before Examiner Fankhauser and the Railroad Commission being of the opinion that the transfer of operating rights and properties and the issue of 1,642 shares of stock should be authorized, and that the money, property or labor to be procured or paid for through such issue 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, and that the issue of 4,998 shares should be denied without prejudice,

IT IS HEREBY ORDERED, that Robt. V. Hardie be, and he hereby is, authorized to transfer to Western Truck Lines, Ltd., on or before December 31, 1931, subject to outstanding liabilities, the operative rights and properties referred to in these proceedings and in the foregoing opinion, provided that no authority is hereby given the purchaser to consolidate or link up operations under said rights.

IT IS HEREBY FURTHER ORDERED, that Western Truck Lines, Ltd. be, and it hereby is, authorized to issue on or before December 31, 1931, not exceeding 1,642 shares of its common capital stock at \$25. a share, and to deliver 1,385 shares thereof in part payment for the rights and properties to be acquired from Robt. V. Hardie under the authority herein granted, and to sell 256 shares thereof for cash at \$25.00 a share for the purpose of paying in part indebtedness to be assumed in connection with the acquisition of said rights and properties, or deliver said 256 shares of stock in payment of said indebtedness.

IT IS HEREBY FURTHER ORDERED, that Western Truck Lines, Ltd. be, and it hereby is, authorized to assume the payment of indebtedness of not exceeding \$16,332.13 in part payment of said rights and properties.

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

1. Robt. V. Hardie , within thirty days from the date of the transfer of the operative rights as herein authorized, shall cancel tariffs and time schedules on file in his name with the Railroad Commission, covering service under the rights herein authorized to be transferred, and said Western Truck Lines, Ltd., a corporation, shall file in its own name, tariffs and time schedules, said time schedules and tariffs to contain the same rates, rules and regulations now maintained by Robt. V. Hardie, or rates

and time schedules satisfactory to the Railroad Commission.

2. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission or any other rate fixing body as determining the value of said properties for any purpose other than the transfer herein authorized.
3. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been secured.
4. No vehicle may be operated by applicant Western Truck Lines, Ltd., 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.
5. Western Truck Lines, Ltd. shall keep such record of the issue of the stock herein authorized and of the disposition of the proceeds as will enable it to file, on or before Thirty(30) days after such issue 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 application insofar as it involves the issue of 4,998 shares of stock, be, and it hereby is, denied without prejudice.

DATED at San Francisco, California, this 26th day of September, 1931.

C. J. Sawyer
Frank O. Whiteley
M. B. Harris
Commissioners