

LBM

Decision No. 24158.

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
 COMMERCIAL DISPATCH LINES, LTD.,  
 a corporation, PACIFIC FREIGHT LINE  
 TERMINALS COMPANY, a corporation, and  
 PACIFIC FREIGHT LINES COMPANY, a cor-  
 poration, SELLERS, and MERCHANTS  
 EXPRESS & DRAYING COMPANY, a corpora-  
 tion, BUYER, for an Order of the  
 Railroad Commission of the State of  
 California (a) authorizing the former  
 to sell and convey and the latter to  
 purchase and acquire the properties  
 and rights referred to in this appli-  
 cation, and (b) authorizing the latter  
 to issue its common capital stock in  
 payment of said properties and rights;  
 also certain properties and rights  
 which it proposes to purchase from  
 Drayage Service Corporation, a cor-  
 poration.

**ORIGINAL**

Application No. 17721

W. F. Williamson Wallace & Vaughan,  
for applicants.

BY THE COMMISSION:

O P I N I O N

This is an application by Commercial Dispatch  
 Lines, Ltd., Pacific Freight Line Terminals Company and Pacific  
 Freight Lines Company to sell and transfer operative rights, pro-  
 perties and businesses to Merchants Express and Draying Company,  
 in exchange for capital stock of the latter in amounts equal to  
 their net book worths as of August 31, 1931.

It appears that Commercial Dispatch Lines, Ltd. is engaged in the business of transporting property between San Francisco and Oakland, Alameda, Emeryville, Berkeley, San Leandro, Albany and Piedmont; such transportation being limited to parcels weighing not in excess of one hundred pounds each, carried between business houses only in motor vehicles of closed passenger type of not more than seventy cubic feet inside capacity. Pacific Freight Line Terminals Company is operating public utility warehouses in the City of Oakland, while Pacific Freight Lines Company is engaged generally in the transportation of property by motor trucks between Richmond and El Cerrito, Berkeley, Oakland, San Lorenzo, San Leandro, Hayward; between Richmond and Oakland; between Ignacio and Oakland, Berkeley and Richmond via San Rafael-Richmond Ferry and Point Richmond; between San Francisco and Oakland, Alameda, Berkeley, San Lorenzo, Hayward, Richmond, Piedmont, Albany, El Cerrito, Stege and other East Bay points; and between South San Francisco and East Bay points. The operative rights are more particularly described in Exhibit one attached hereto and made a part hereof. The applicants do not desire to enlarge the operative rights proposed to be transferred by a linking up or consolidation of the same.

It seems that the corporations, applicants herein, are controlled through stock ownership by the same interests. They have concluded that it would be more advantageous and economical to consolidate the properties and their management under one corporate entity. To that end, therefore, there has been organized Merchants Express and Draying Company, which has entered into arrangements to purchase the operative rights, businesses and properties of the present operating companies and in consideration to issue to each, common stock in amounts equal to the net book

worths as of August 31, 1931, as disclosed by the books. In addition, Merchants Express and Draying Company also proposes to purchase from Drayage Service Corporation, an alleged non-public utility corporation engaged in the local drayage business in Oakland and elsewhere, all of its properties and business except certain real property and capital stock which it owns in Commercial Dispatch Lines, Ltd., Pacific Freight Line Terminals Company and Consolidated Motor Transport Company.

The net/<sup>book</sup>worth of the selling companies, as of August 31, 1931, is reported as follows:

Commercial Dispatch Lines, Ltd.	\$1.00
Pacific Freight Line Terminals Com- pany .....	6,408.73
Pacific Freight Lines Company...	130,007.65
Drayage Service Corporation....	<u>235,749.88</u>
Total.....	<u>\$372,167.26</u>

The assets and liabilities of the several corporations from which the above figures have been derived are reported in financial statements filed in this proceeding. From our examination of them it appears to us that there are several asset items about which further information is necessary before we can make final determination of the amount of stock we should authorize the purchaser to issue. Pending receipt of such information, we will at this time authorize the transfer of the rights and properties and the issue by Merchants Express and Draying Company of 1,000 shares of common stock of no par value. The issue of additional stock will be considered in a supplemental opinion and/or order. The authority granted in the following order will enable applicants to carry out the transfer and consolidation of the aforementioned properties.

In making this order we wish 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 holders 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.

#### ORDER

Application having been made to the Railroad Commission for an order authorizing Commercial Dispatch Lines, Ltd., Pacific Freight Line Terminals Company and Pacific Freight Lines Company to sell and transfer operative rights, properties and businesses to Merchants Express and Draying Company, and authorizing Merchants Express and Draying Company to issue stock, and the Railroad Commission being of the opinion that a public hearing in this matter is not necessary at this time, that the sale and transfer of said properties should be authorized, and that the Merchants Express and Draying Company should be permitted to issue 1,000 shares of common stock, <sup>of no par value</sup> and being further of the opinion that the issue of such stock is reasonably required for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expense or to income,

IT IS HEREBY ORDERED, that Commercial Dispatch Lines, Ltd., Pacific Freight Line Terminals Company and Pacific Freight Lines Company be, and they hereby are, authorized to sell and transfer, after the effective date hereof and on or before December 31, 1931, to Merchants Express and Draying Company, the businesses and properties referred to in this application (Exhibit F, G and H) and the

operative rights referred to and described in Exhibit one attached to this order and made a part hereof.

IT IS HEREBY FURTHER ORDERED, that Merchants Express and Draying Company be, and it hereby is, authorized to purchase and acquire said businesses, properties and rights and to issue, after the effective date hereof and on or before December 31, 1931, not exceeding 1,000 shares of its common capital stock of no par value, at the price of \$100.00 a share in part payment for the aforesaid businesses, properties and rights and also the properties of Drayage Service Corporation described in Exhibit one filed in this proceeding.

The authority herein granted is subject to the following conditions:

1. Commercial Dispatch Lines, Ltd., Pacific Freight Line Terminals Company and Pacific Freight Lines Company, sellers, shall, within thirty(30) days from the date of the transfer of the operative rights as herein authorized, withdraw tariffs and time schedules on file in their names with the Railroad Commission covering service under the rights herein authorized to be transferred, and Merchants Express and Draying Company, buyer, 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 said sellers, or rates, rules and regulations 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 a measure of value of said property for rate fixing, or 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 Merchants Express and Draying Company 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. Merchants Express and Draying Company 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 within thirty (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.

6. Merchants Express and Draying Company shall file with the Railroad Commission a copy of each and every journal entry used to record on its books the acquisition of the properties of the selling companies.

7. This order shall not be construed by Merchants Express and Draying Company as authority to consolidate, merge, or unify the operative rights described in Exhibit one nor to operate in any manner different from the manner prescribed by said rights.

8. The authority herein granted will become effective fifteen (15) days after the date hereof.

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

Leon Swisher  
W. J. Cunniff  
W. B. Lawrence  
Fred G. Stewart  
Commissioners

EXHIBIT ONE

DESCRIPTION OF OPERATIVE RIGHTS AUTHORIZED  
BY THE FOREGOING ORDER TO BE TRANSFERRED TO  
MERCHANTS EXPRESS AND DRAYING COMPANY BY  
COMMERCIAL DISPATCH LINES, LTD., PACIFIC  
FREIGHT LINES COMPANY AND PACIFIC FREIGHT  
LINE TERMINAL COMPANY

A. COMMERCIAL DISPATCH LINES, LTD.

This company's operative rights consist of a certificate originally granted by Decision No. 20635, dated December 28, 1928, in Application No. 16173, to George W. Elliott and C. S. Crowell for the operation of an

"----automobile service for the transportation of property between San Francisco and Oakland, Alameda, Emeryville, Berkeley, San Leandro, Albany and Piedmont, said service to be limited to the transportation of parcels weighing not in excess of one hundred pounds each between business houses exclusively and in motor vehicles of closed passenger type of not more than seventy cubic feet inside capacity."

By Decision No. 21549, dated September 12, 1929; in Application No. 15943, George W. Elliott and C. S. Crowell were authorized to transfer the operative right to H. L. Hinman and W. P. Scott, who in turn by Decision No. 22754, dated August 6, 1930, in Application No. 16659, were authorized to transfer it to Commercial Dispatch Lines, Ltd.

B. PACIFIC FREIGHT LINES COMPANY

By Decision No. 22925, dated September 30, 1930, in Applications Nos. 16826 and 16827, Pacific Freight Lines Company was authorized to acquire the operative rights of Consolidated Motor Transport Company and of H. L. Hinman, doing business as Merchants Express & Draying Company, and to consolidate such rights. The rights are as follows:

1. From Consolidated Motor Transport Company:

Prior right. H. L. Hinman under the name of Oakland Parcel Delivery issued freight tariff C.R.C. No. 1 effective February 1, 1918, showing rates for the transportation of property between San Francisco, Oakland, Berkeley, Alameda, Piedmont, Emeryville, Fruitvale and Melrose.

Application No. 15944, Decision No. 21563, September 17, 1929: Hinman authorized to transfer above operative right to Consolidated Motor Transport Company, a corporation.

Application No. 15918, Decision No. 21634, September 30, 1929: Consolidated Motor Transport Company authorized to acquire operative rights and properties of Consolidated Motor Freight Lines, Inc. which were established as follows:

Prior right by A. A. McFarland under the name of Richmond Motor Express Company issued C.R.C. No. 1 Local and Joint Freight Tariff showing local rates for transportation of property between Oakland, Albany, El Cerrito and Richmond;

Prior right by S. L. Williams under the name of Williams Motor Express Company C.R.C. No. 1 effective February 1, 1918 local and joint freight tariff showing local rates for the transportation of property between Oakland, Fruitvale, Melrose, San Leandro, Hayward and San Lorenzo;

Application No. 6952, Decision No. 9421 of August 25, 1921 authorized Consolidated Motor Freight Lines, Inc. to acquire the prior rights of McFarland and Williams as next hereinabove described.

Application No. 16175, Decision No. 21981, January 3, 1930: Consolidated Motor Transport Company et al authorized to publish tariffs showing Albany as a service and rate point as part of prescriptive operations.

Application No. 16409, Decision No. 22281, April 2, 1930: Consolidated Motor Transport Company authorized to acquire from R. H. Clarke and Walter Johnson operating as Oakland San Rafael Express freight operative rights between Oakland and San Rafael. No consolidation or merging permitted. Such rights were established and are as follows:

Application No. 7607, Decision No. 10672 of July 7, 1922 certificate granted to R. H. Clarke and F. O. Garrett for the transportation of milk in cans between Ignacio and dairies in the vicinity of Ignacio on the one hand, and Oakland, Berkeley and Richmond on the other hand via San Rafael, San Rafael-Richmond Ferry and Point Richmond; and for the common carriage of freight, in general, between San Rafael and San Quentin on the one hand, and Richmond, Berkeley and Oakland on the other hand via Richmond-San Rafael Ferry and Point Richmond.

Provision No.1 of the Decision reads:

1. Nothing herein contained shall be construed as authorizing the transportation of milk or other freight between points, other than those above mentioned, by the establishment of joint rates and through routes or otherwise.

Application No. 9504, Decision No. 12860 of November 26, 1923 authorized Walter Johnson to acquire a one-third interest with Clarke and Garrett;

Application No. 13038, Decision No. 17172 of July 31, 1926 Johnson acquires the right of Garrett.



2. From H. L. Hinman:

Prior right. H. L. Hinman, under the name of Merchants Express & Draying Co. filed C.R.C. No. 1, effective February 1, 1918, show rates for transportation of property between San Francisco, Oakland, Berkeley, Alameda, Piedmont, Emeryville, Fruitvale and Melrose.

Application No. 16175, Decision No. 21981, January 3, 1930: Merchants Express & Draying Company et al was authorized to publish tariffs showing Albany as a service and rate point as a part of prescriptive operations.

Application No. 16122, Decision No. 21998, January 10, 1930: Certificate granted to Hinman to transport freight as an extension of his prescriptive operating rights and not as a new operating right, as follows:

"...DECLARES that public convenience and necessity require the extension by applicant of such service between Alameda County points now served by him, and no others, and the City of South San Francisco, over and along the following route, and no other:

From the Embarcadero via Market Street, Tenth Street, Potrero Avenue and San Bruno Avenue; thence via San Bruno Avenue to the City of South San Francisco.

provided no transportation may be conducted between the City and County of San Francisco and South San Francisco, or points intermediate."

The authority for transfer and consolidation was granted subject, among others, to the condition:

"(a) All limitations and restrictions under which the operative rights herein authorized to be consolidated have been granted, shall remain in full force and effect, except such limitations and restrictions which prohibit the consolidation of said operative rights."

C. PACIFIC FREIGHT LINE TERMINALS COMPANY

These warehouse rights were established by Pacific Freight Line Terminals Company, formerly known as Oakland Warehouse Terminals Company, by reason of operations prior to August 3, 1927, the effective date of Section 50-1/2 of the Public Utilities Act, and by purchase of the rights of H. L. Hinman, operating under the name of Merchants Express & Draying Company under authority granted by Decision No. 22925, dated September 30, 1930, which rights had been established by said Hinman also by reason of operations prior to August 3, 1927. At the close of 1930 the company reported the operation of 36,564 square feet of floor space.