

ORIGINAL

Decision No. 87157

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA.

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In the Matter of the Application of ROY JAKEWAY, operating a truck line between San Diego and Oceanside and intermediate points for permission to sell and transfer his operative rights therein, together with certain equipment, to Coast Truck Line, a Corporation.

Application No.6095.

In the Matter of the Application of R. ROY WHEATSTONE, operating a truck line between Escondido and Los Angeles and intermediate points, for permission to sell and transfer his operative rights therein, together with certain equipment, to Coast Truck Line, a Corporation.

Application No.6094.

In the Matter of the Application of COAST TRUCK LINE, a Corporation, to issue one hundred and fifty shares of its common stock.

Application No.6096.

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H. J. Bischoff for Applicants.
Paul Burks and S. C. Payson for the Atchison,
Topeka and Santa Fe Railway Company, Protestant.
E. E. Rodebaugh for Charles D. Boynton, Proprietor,
Boulevard Express, Protestant.
T. A. Woods, for American Railway Express, Protestant.

BY THE COMMISSION:

O P I N I O N

Applicants, Roy Jakeway, and Coast Truck Line, a Corporation, have petitioned the Railroad Commission for the approval of the sale and transfer of the operative rights, including certain equipment, now possessed by applicant, Jakeway, to applicant, Coast Truck Line, a Corporation.

Applicants R. Roy Whetstone and Coast Truck Line, a Corporation, have petitioned the Railroad Commission for an order approving the sale and transfer of the operative rights, including certain equipment, now held by applicant, R. Roy Whetstone, to applicant, Coast Truck Line, a corporation.

Coast Truck Line, a Corporation, has applied to the Railroad Commission for authority to issue one hundred and fifty shares of its common stock of the par value of \$100.00 each, ninety shares to be issued to Roy Jakeway in exchange for the operative rights and tangible assets of said Jakeway heretofore used in the operation of an automobile truck line as a common carrier between San Diego and Oceanside; sixty shares of the par value of \$100.00 each to be issued to R. Roy Whetstone in exchange for the operative rights and tangible assets of said Whetstone, as used in the operation of an automobile truck line as a common carrier of freight between Escondido and Los Angeles, such operative right, however, including no right for the transportation of freight locally in the district intermediate between Los Angeles and Oceanside.

A public hearing on these applications was conducted by Examiner Handford at San Diego at which time the matters were consolidated for the purpose of receiving evidence, were duly submitted and are now ready for decision.

Applicant, Roy Jakeway, is the owner of the operative rights for the conduct of an automobile freight service between San Diego and Oceanside and intermediate points; such operative rights having been acquired by purchase from R. E. and H. E. Steele, co-partners doing business under the name of Oceanside Truck Line, the transfer of such operative rights having been approved by this Commission under its Decision Number 7787 on Application Number 5807, as decided June 24, 1920.

✓ Applicant, Roy Jakeway, was the owner of a Moreland four ton truck and a Moreland one and one-half ton truck completely equipped for the conduct of freight business and is also the owner of depot facilities and office equipment at San Diego and Oceanside and proposes to transfer these trucks and the office equipment and lease on depot facilities to the Coast Truck Line in consideration of the issuance by Coast Truck Line, a corporation, of ninety shares of the common stock of said Coast Truck Line in accordance with the provisions of an agreement under date of August 21, 1920, attached to and forming a part of Application Number 6095 included in this proceeding. The evidence of applicant indicates that the trucks proposed to be transferred have a present value of \$7,500.00. Applicant has a lease on a warehouse at Oceanside and joint use with another truck company of terminal facilities at San Diego at which point, one-half of a platform is owned by applicant, Jakeway, having a value of approximately \$125.00. Other furniture and fixtures approximate the value of \$150.00 or a total amount of \$7,775.00 in tangible assets, for which are to be exchanged ninety shares of a proposed issue of capital stock of the Coast Truck Line at a par value of \$100.00 per share or a total value of \$9,000.00.

Applicant, R. Roy Whetstone, is the owner of the operative rights for the conduct of an automobile freight service between Escondido and Los Angeles via Oceanside; such operative rights having been acquired under the authority conferred by this Commission in its Decision Number 6898 on Application Number 4999, as decided November 29, 1919. The certificate issued confers authority for the handling of freight between Escondido and Oceanside and intermediate points but confers no authority for the handling of intermediate business between Los Angeles and points intermediate to Ocean-

side, the authorized route covering through service from Los Angeles to Oceanside and Escondido with the privilege of handling intermediate business between the communities of Oceanside and Escondido. Applicant, E. Roy Whetstone, is the owner of a federal truck, two-ton capacity, fitted with pneumatic tires; the truck including cost of accessories, such as special body, lights, wind shield and pneumatic tires, representing an investment of \$4,311.00 with a present value, less depreciation, estimated at \$3,800.00. Applicant also has a three year lease on terminal facilities in Escondido which it is proposed to transfer to applicant, Coast Truck Line, in consideration of the issuance by Coast Truck Line, a corporation, of sixty shares of the common stock of said Coast Truck Line in accordance with the provisions of an agreement under date of August 21, 1920, attached to and forming a part of Application Number 6094 included in this proceeding.

At the hearing on these applications the granting of same was protested by The Atchison, Topeka and Santa Fe Railway Company and Charles D. Boynton, proprietor, The Boulevard Express, also by the American Railway Express Company. The attitude of these protestants is that no order should be made by the Commission approving a transfer which will make any change in the operative conditions from those now existing by reason of the operative rights being exercised by the individuals seeking transfer of their operative rights to the Coast Truck Line, a corporation. Protestants object to the consolidation of these lines, if by such consolidation authorization is conferred for the establishment of a competing line in the district between Oceanside and Los Angeles, particularly as regards the conduct of local or intermediate business between such points.

It is obvious that the Commission cannot and will not approve the transfer of operative rights and allow in such transfer the expansion of operative rights as regards territory heretofore restricted when the operative rights are in the possession of an individual. The prayer of applicants is not for the expansion of their rights to cover territory heretofore restricted and, before the Commission could so authorize expansion of territory, it would be necessary for applicants to be before us in a proceeding seeking to establish public convenience and necessity as regards the restricted territory and protestants or other competing lines would receive notice of such proceeding that they might meet at a public hearing the particular issues defined. The objections of protestants will be fully met by the order in this proceeding in that such order will not authorize in the approval of transfer the expansion of any operative rights over those now possessed by applicants, Jakeway and Whetstone.

Applicant, Coast Truck Line, is a corporation duly formed under the laws of the State of California, as evidenced by certified copy of Articles of Incorporation under date of August 9, 1920, as filed with the Secretary of State, furnished by applicant and of record in this proceeding.

Applicant proposes to issue a total of 150 shares of its common stock as follows:

90 shares to be issued to Roy Jakeway in exchange for certain equipment, depot facilities and office equipment at San Diego and Oceanside and for the transfer of the operative rights owned by said Jakeway for the conduct of an automobile freight service between San Diego and Oceanside and intermediate points, such operative rights having been acquired by purchase from R. H. and H. E. Steele under a transfer approved by this Commission under its Decision Number 7787 on

Application Number 5807, as decided June 24, 1920; applicant also proposes to issue 60 shares of its capital stock to R. Roy Whetstone in exchange for certain equipment, lease on terminal facilities at Escondido and the transfer of the operative rights now held by R. Roy Whetstone for the conduct of an automobile freight line as a common carrier between Escondido and Los Angeles via Oceanside; such operative rights heretofore acquired by applicant, Whetstone, under Decision Number 6808 on Application Number 4999, as decided by this Commission on November 29, 1919.

Applicant proposes to acquire from Roy Jakeway one four-ton Moreland truck and one-and one half-ton Moreland truck, both completely equipped for the conduct of freight business and also depot facilities and office equipment at San Diego and Oceanside. Evidence at the hearing on this proceeding indicates that the value of equipment proposed to be transferred is at the present the sum of \$7,500.00. The value of terminal facilities, furniture and fixtures is approximately \$275.00 or a total amount of \$7,775.00. In tangible assets for which applicant herein proposes to exchange 90 shares of its capital stock at a par value of \$100.00 per share or a total value of \$9,000.00. There is an amount of \$1,225.00 which represents an intangible which may be expressed by the term operating right, franchise value, good will, going concern value or by any other term. This Commission cannot recognize an operative right as possessing any value other than the actual expense necessary in the securing of a certificate of public convenience and necessity, as required by statutory enactment and we find no justification for the allowance of the sum of \$1,225.00, as covering the intangible value for which a stock issuance is proposed. The establishment of the line proposed to be transferred to ap-

plicant by Jakeway has required some expenditure of time and effort to place same on a proper operative basis and we feel that authority may properly be granted for the issuance of 90 shares of the capital stock of applicant in full payment for the two Moreland trucks, their equipment, the office furniture and fixtures and all other tangible property proposed to be transferred, including also a relinquishment by Jakeway to applicant Coast Truck Line, a corporation, of all operative rights heretofore acquired by said Jakeway from R. H. and H. E. Steele under Decision Number 7787 of the Railroad Commission on Application Number 5807, as decided June 24, 1920.

Applicant proposes to acquire from R. Roy Whetstone one Federal truck, two ton capacity, fitted with pneumatic tires, the original cost of this truck, including accessories necessary to properly equip same for service being \$4,311.00 and the truck having a present value, less depreciation, estimated at \$3,800.00. Applicant also will acquire a three year lease on terminal facilities in Escondido and it is proposed to issue sixty shares of the common stock of applicant to Whetstone in full payment for all equipment, interest in the lease on terminal facilities and operative right now possessed by Whetstone. Evidence at the hearing on this proceeding indicates that the value of the tangible assets proposed to be transferred is at present the sum of \$3,800.00. There is, therefore, an amount of \$2,200.00 representing intangibles and, as hereinabove recited in the consideration of the proposed transfer of the Jakeway property to applicant, the Commission cannot recognize any value for the intangible or operative right. We feel that authority may properly be granted for the issuance of 43-1/2 shares of the capital stock of applicant in full payment for the one Federal truck, two

ton capacity, together with all accessory equipment and such depot facilities and office equipment as are located at Escondido and Los Angeles, including also a relinquishment by Whetstone to applicant, Coast Truck Line, a corporation, of all operative rights heretofore acquired by applicant, Whetstone, under Decision Number 6808 on Application Number 4999, as decided by the Railroad Commission on November 29, 1919.

O R D E R

A public hearing having been held in the above entitled proceedings, the matters having been duly submitted and the Commission being fully advised,

IT IS HEREBY ORDERED,

- I. The Railroad Commission hereby approves the sale and transfer of the operative rights, including certain equipment as specifically set forth in the preceding opinion from Roy Jakeway to Coast Truck Line, a corporation, in consideration of the issuance by said Coast Truck Line to applicant, Jakeway, of ninety shares of its capital stock; such stock issuance to be contingent upon the relinquishment by applicant, Jakeway, to Coast Truck Line, a corporation, of all operative rights heretofore acquired from R.E. and E. E. Steele under Decision No. 7787 on Application No. 5807, as decided June 24, 1920.
- II. Applicant, Roy Jakeway, will be required to immediately cancel all tariff and time schedules now on file with this Commission and applicant, Coast Truck Line, a corporation, will be required to immediately file with this Commission tariffs and time schedules or to adopt

as its own the tariffs and time schedules, as heretofore filed by applicant, Roy Jakeway. All tariffs to contain the same rates, as heretofore in effect and covered by tariff filings of said applicant, Roy Jakeway.

III. The Railroad Commission hereby approves the sale and transfer of the operative rights, including certain equipment as specifically set forth in the preceding opinion from R. Roy Whetstone to Coast Truck Line, a corporation, in consideration of the issuance by said Coast Truck Line to applicant, Whetstone, of forty-three and one-half shares of its capital stock, such stock issuance to be contingent upon the relinquishment by applicant, R. Roy Whetstone, to Coast Truck Line, a corporation, of all operative rights heretofore acquired under Decision Number 6898 of this Commission on Application Number 4999, as decided November 29, 1919.

IV. Applicant, R. Roy Whetstone, will be required to immediately cancel all tariff and time schedules now on file with this Commission and applicant, Coast Truck Line, a corporation, will be required to immediately file with the Commission tariffs and time schedules or to adopt as their own the tariffs and time schedules, as heretofore filed by applicant, R. Roy Whetstone, all tariffs to contain the same rates as heretofore in effect and covered by tariff filings of said applicant, R. Roy Whetstone.

V. No authority is hereby conveyed for the expansion of any operative rights beyond those heretofore held by applicants, Whetstone and Jakeway, under the authority contained by decisions of this Commission hereinabove specifically mentioned.

VI. No vehicle may be operated under this authority for transfer by Coast Truck Line, a corporation, unless such vehicle is owned by such applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

VII. The transfer of operative rights hereinabove authorized and the required cancellation of tariffs and schedules by applicants, Jakeway and Whetstone, and the filing of new tariffs and schedules by applicant, Coast Truck Line, shall be made not later than thirty days from the date of the order in this proceeding unless the time for accomplishing the authorized transfers, the cancellation and filing of tariffs, shall be extended by the further order of this Commission.

COAST TRUCK LINE having applied to the Railroad Commission for permission to issue \$15,000.00 of common stock for the purpose of acquiring the properties referred to in the foregoing opinion, a public hearing having been held and the Commission being of the opinion that applicant may properly be permitted to issue \$13,350.00 of common stock to acquire said properties, and that the expenditures necessary to acquire said properties are not in whole or in part reasonably chargeable to operating expenses or to income;

IT IS HEREBY ORDERED that COAST TRUCK LINE be, and it is hereby, authorized to issue within 30 days after the date of this order \$13,350.00 par value of its common stock.

The authority herein granted to issue said stock is subject to the following conditions:

- 1.— Stock in the amount of \$9,000.00 herein authorized to be issued may be delivered to Roy Jakeway in full payment for one 4-ton Moreland truck, one 1½-ton Moreland truck, together with all other properties which said Roy Jakeway has agreed to sell and deliver to Coast Truck Line and referred to in the foregoing opinion and in this application.
- 2.— Stock in the amount of \$4,350.00 herein authorized to be issued may be delivered to R. Roy Whetstone in full payment for one 2-ton Federal truck and all other properties which said R. Roy Whetstone has agreed to sell to Coast Truck Line and which properties are described in the foregoing opinion and in this application.
- 3.— The authority herein granted to issue stock in payment for properties to be acquired from Roy Jakeway and R. Roy Whetstone shall not be considered as fixing a value upon said properties for the purpose of establishing rates or for any purpose except the issue of stock herein authorized.
- 4.— Coast Truck Line shall keep such record of the issue and sale 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 Number 24, which order in so far
as applicable, is made a part of this order.

The foregoing opinion and order are hereby approved
and ordered filed as the opinion and order of the Railroad
Commission of the State of California.

Dated at San Francisco, California, this 8th day of
March, 1921.

Wm R. Brown
H. D. Howard
H. B. ...

Commissioners.