

Decision No. 26138

**ORIGINAL**

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
MOTOR SERVICE EXPRESS, a corporation,  
and BORDERLAND EXPRESS, INC., a cor-  
poration, sellers, and COAST TRUCK  
LINE, a corporation, purchaser, for  
an order of the Railroad Commission  
of the State of California, authoriz-  
ing the sellers to sell and transfer  
to the purchaser the operating rights,  
property and businesses described  
in this application. )

) Application No. 18977

Henry J. Bischoff, for applicants.

BY THE COMMISSION:

O P I N I O N

This is an application for an order authorizing Motor Service Express, a corporation, and Borderland Express, Inc., a corporation, to sell and transfer auto truck operating rights, properties and businesses to Coast Truck Line, a corporation.

The application shows that the three corporations, applicants herein, are controlled through stock ownership by Southern California Freight Lines, Ltd. and that in the interest of economy it has been decided to consolidate the three separate operations under one corporation.

The operating rights to be thus transferred to Coast Truck Line were acquired by the present sellers under orders of

the Commission, as follows:

MOTOR SERVICE EXPRESS

Decision No. 15952, dated February 8, 1926, in Application No. 12244  
 Decision No. 16547, dated April 23, 1926, in Application No. 12740  
 Decision No. 21934, dated December 20, 1929, in Application No. 16127  
 Decision No. 22746, dated August 5, 1930, in Application No. 16300  
 Decision No. 23722, dated May 25, 1931, in Application No. 17002  
 Decision No. 23867, dated July 3, 1931, in Application No. 17444  
 Decision No. 23905, dated July 24, 1931, in Application No. 16141  
 Decision No. 24033, dated September 14, 1931, in Application No. 17617

BORDERLAND EXPRESS, INC.

Decision No. 17363, dated September 21, 1926, in Application No. 13072  
 Decision No. 23497, dated March 12, 1931, in Application No. 17199

The physical properties include forty-one trucks and twenty-six trailers of Motor Service Express, reported to have cost \$133,703.28 and to have a net book value, after deducting estimated accrued depreciation, of \$21,094.59; and ten trucks and three trailers of Borderland Express, Inc. reported to have cost \$30,010.80 and to have a net book value of \$17,559.74. The equipment is listed in Exhibit "A." The total assets (equipment and buildings depreciated) and liabilities of the selling concerns, as of May 31, 1933, are set forth in Exhibit "B" as follows:

	: Motor : Service : Express	: Borderland: : Express : Inc.	: TOTAL
<u>ASSETS</u>			
Automotive equipment .....	\$ 21,094.59	\$17,559.74	\$ 38,654.33
Furniture, fixtures, etc. ....	2,413.76	807.84	3,221.60
Land and buildings .....	33,880.02	1,108.59	34,988.61
Cash and accounts receivable .....	47,415.28	10,439.29	57,854.57
Prepayments .....	400.71	425.70	826.41
Investment in stocks .....	4,463.76	-	4,463.76
Franchises .....	17,050.00	33,330.38	50,380.38
Total assets .....	<u>\$126,718.12</u>	<u>\$63,671.54</u>	<u>\$190,389.66</u>
<u>LIABILITIES</u>			
Accounts payable .....	\$ 24,017.44	\$ 8,549.71	\$ 32,567.15
Notes payable .....	13,242.70	-	13,242.70
Total liabilities .....	<u>\$ 37,260.14</u>	<u>\$ 8,549.71</u>	<u>\$ 45,809.85</u>

The transfer of the rights and properties is provided for in an agreement dated June 27, 1933, a copy of which is filed as Exhibit "C". Under its terms, the purchaser, Coast Truck Line, in consideration for all the properties and assets of Motor Service Express and Borderland Express, Inc. agrees to assume all the liabilities of those two corporations, which liabilities aggregated \$45,809.85 on May 31, 1933, as shown in the foregoing balance sheet.

The Coast Truck Line does not ask permission to issue any stock or evidences of indebtedness. Although the order herein will authorize the transfer of the properties of Motor Service Express and Borderland Express, Inc. to Coast Truck Line we have made no determination of the value of said properties for the purpose of issuing securities, fixing rates or for accounting purposes. 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 the transfer of operative rights, properties and businesses of Motor Service Express and Borderland Express, Inc. to Coast Truck Line, and the Railroad 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, therefore,

IT IS HEREBY ORDERED, that Motor Service Express and Borderland Express, Inc. be, and they hereby are, authorized to transfer all of their operating rights, properties and businesses, referred to in the foregoing opinion, to Coast Truck Line, subject to outstanding liabilities, such transfer to be made in accordance with the terms and conditions of the agreement filed as Exhibit "C" in this proceeding.

IT IS HEREBY FURTHER ORDERED, that the authority herein granted is subject to the following conditions:-

1. Motor Service Express, Borderland Express, Inc. and Coast Truck Line shall unite immediately in common supplement, to be filed in triplicate, to the tariffs on file with the Railroad Commission covering operations under the rights herein authorized to be transferred, applicants Motor Service Express and Borderland Express, Inc. on the one hand withdrawing, and Coast Truck Line on the other hand accepting and establishing as its own such tariffs and all effective supplements thereto.
2. Motor Service Express and Borderland Express, Inc. shall withdraw the time schedules filed in their names with the Railroad Commission covering their service under the operating rights herein authorized to be transferred, and Coast Truck Line shall file in duplicate in its own name the time schedules covering such service, which schedules shall be identical with the time schedules now on file with the Commission, or time schedules satisfactory to the Commission.
3. The rights and privileges herein authorized to be transferred may not hereafter be sold, transferred, leased nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, transfer, lease or assignment has first been secured.

4. No vehicle may be operated by Coast Truck Line under the authority herein granted, unless such vehicle is owned by Coast Truck Line or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.
5. Motor Service Express and Borderland Express, Inc., within sixty (60) days after the transfer herein authorized shall file with the Commission a financial report showing their operations from January 1, 1933 down to the date of transfer, such report to be prepared on the annual report forms prescribed by this Commission.
5. The authority herein granted will become effective fifteen (15) days after the date hereof.

DATED at San Francisco, California, this 10<sup>th</sup> day of July, 1933.

CL Seamy  
Leon White  
M. J. Carr  
M. B. Harris  
W. H. Smith, A. G.  
Commissioners.