

Decision No. 26601

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of COASTSIDE TRANSPORT CO., INC., a corporation, for certificate of public convenience and necessity to operate (1) Passenger, Freight, and Express services between San Francisco, Calif., and Santa Cruz, Calif., via the so-called "Coast Route"; (2) Passenger and Freight service between Redwood City, Cal. and San Gregorio, Cal., via La Honda with no local service between Redwood City and Woodside; (3) Freight and Express service between San Mateo, Calif., and certain points North and South of Half Moon Bay, Calif.; (4) Express service between San Francisco and La Honda, Cal.; (5) Right to operate detour service of loaded freight trucks between San Francisco and Half Moon Bay, via. Peninsula Highway and San Mateo; (6) Right to operate an "on call" service within five miles of either side of the highway traversed, South of Colma.

ORIGINAL

Application No. 19167

C. F. Humphrey & James H. Hogin, for applicants.
Young, Hudson & Rabinowitz, by Frank Rethers,
for creditor of Coastside Transportation
Company.

Olds & Olds, by Walter J. Olds, for Ernest Del
Cielo, G. Rossi, P. Brunetto and E. Tobacco.
Lloyd G. Hildebrand, for Southern Pacific Company,
Pacific Motor Transport and Railway Express
Agency, Inc.

BY THE COMMISSION:

O P I N I O N

In this application, as amended at the hearing held before Examiner Fankhauser on November 22nd, the Railroad Commission is asked to make an order authorizing Coastside Transportation Company,

a corporation, to transfer its operative rights to Coastside Transport Co., Inc., a corporation, and authorizing Coastside Transport Co., Inc., to issue 20,075 shares of its common capital stock of the total par value of \$20,075.00 in payment for properties.

The record shows that Coastside Transportation Company, hereinafter sometimes referred to as the old company, at present is operating auto stages and trucks for the transportation of persons and property generally between San Francisco and Santa Cruz and intermediate points, as shown in its schedules of rates and charges on file with the Commission.

It is reported that the old company finds it necessary to discontinue its operations for the reasons, among others, that six judgments were recovered against it by certain of its creditors for a total amount of approximately \$38,000.00 in connection with damages said to have arisen from acts of the corporation; that it has lost most of its trucks through foreclosure proceedings; that it has been unable to pay its franchise taxes, amounting to approximately \$5,000., that the State of California has recovered judgments against it and the Sheriff of the City and County of San Francisco has sold or is about to sell under execution all of its remaining property; that an involuntary petition in bankruptcy has been filed in the District Court of the United States of the Northern District of California praying that it be adjudicated a bankrupt; and that Bank of America National Trust and Savings Association has filed suit in the Superior Court of the State of California to foreclose certain real estate mortgages.

The testimony in the proceeding indicates that Coastside Transport Co., Inc., hereinafter sometimes referred to as the new company, has been organized by those interested in having the service

now performed by the old company maintained, and that they have acquired or will acquire the rolling equipment heretofore operated by the old company at the sheriff's sale and will transfer such equipment to the new corporation for stock. Thereupon the new corporation proposes to render the identical service, under the same rates and charges, now performed by the old company.

To enable it to give such service, arrangements have been made for the old company to transfer its operating rights to the new one. The first three of these rights were created by the Commission by Decision No. 11654, dated February 13, 1923, in Application No. 8252; Decision No. 12052, dated May 8, 1923, in Application No. 8949; and Decisions Nos. 12130, dated May 25, 1923; and 12319, dated July 3, 1923, in Application No. 8963; and were transferred to the old company by Decision No. 13023, dated January 10, 1924, in Application No. 9320. Thereafter additional rights, or enlargements, were obtained by the old company in Decision No. 15086, dated June 22, 1925 in Application No. 10648; Decision No. 15363, dated September 3, 1925, in Application No. 11593; Decisions Nos. 18025, dated February 24, 1927; and 18267, dated April 20, 1927, in Application No. 11801; Decision No. 21287, dated June 27, 1929, in Application No. 15562; and Decision No. 22780, dated August 13, 1930, in Application No. 16718.

The properties to be acquired by the new corporation in exchange for its \$20,075.00 of stock are set forth in Exhibit "B". They include twenty-one trucks and stages, three trailers, office furniture and fixtures, garage equipment, tools, implements, and materials and supplies. In addition, there is included \$1,000.00 representing costs and expenses of obtaining franchises, \$1,500.00 for attorney's fees and \$1,500.00 for working capital. The total estimated market value of the physical equipment plus the cost of franchises, attorney's fees and working capital is stated in the exhibit at \$25,100.00, while

indebtedness to be assumed is reported at \$5,000.00, leaving a net figure of \$20,100.00 which is approximately equivalent to the total par value of the proposed stock issue. The truck, trailer and stage equipment is valued at \$16,100.00 but insured for \$17,800.00.

The Commission has repeatedly held 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. The Commission has, upon proper showing, permitted stock to be issued against the money actually expended for the purpose of obtaining operative rights. In this instance, however, neither the old company, nor the new company, presented any evidence which warrants the Commission to authorize the issue of stock against operative rights.

We have considered the request of Coastside Transport Co., Inc. to issue stock, and believe that such issue should not exceed \$18,500.

In making this order we wish to place the new company upon notice that the operating rights themselves 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 in the number of rights which may be given.

ORDER

Application having been made to the Railroad Commission for an order authorizing Coastside Transportation Company to transfer auto stage operating rights to Coastside Transport Co., Inc., and authorizing Coastside Transport Co., Inc. to issue \$20,075.00 of stock, a public hearing having been held and the Commission being of the opinion that

Coastside Transport Co., Inc. should be permitted to issue \$18,500.00 of stock, that the money, property or labor to be procured or paid for through the issue of said \$18,500.00 of 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, and that this application, insofar as it involves the issue of \$1,575.00 of stock, be dismissed without prejudice, therefore,

IT IS HEREBY ORDERED, that Coastside Transportation Company be, and it hereby is, authorized to transfer to Coastside Transport Co., Inc. the operating rights referred to in the foregoing opinion and in this application.

IT IS HEREBY FURTHER ORDERED, that Coastside Transport Co., Inc. be, and it hereby is, authorized to issue, on or before February 28, 1934, not exceeding \$18,500.00 par value of its common capital stock in part payment for the properties set forth in Exhibit "B", subject to indebtedness of not exceeding \$5,000.

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

1. Coastside Transportation Company and Coastside Transport Co. Inc. 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, Coastside Transportation Company on the one hand withdrawing, and Coastside Transport Co., Inc. on the other hand, accepting and establishing as its own such tariffs and all effective supplements thereto.

2. Coastside Transportation Company shall withdraw time schedules filed in its name with the Railroad Commission covering its service under the operating rights herein authorized to be transferred, and Coastside Transport Co., Inc. shall file, in duplicate, in its own name 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 Coastside Transport Co., Inc. under the authority granted herein, unless such vehicle is owned by Coastside Transport Co., Inc. or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.

5. Coastside Transport Co., Inc. shall keep such record of the issue of the stock herein authorized as will enable it to file, within thirty(30) days thereafter a verified report such as is required by the Railroad Commission's General Order No. 24 , which order insofar as applicable, is made a part of this order.

6. The authority herein granted will become effective twenty(20) days from the date hereof.

IT IS HEREBY FURTHER ORDERED, that this application insofar as it involves the issue of \$1,575.00 of stock be, and the same is hereby, dismissed without prejudice.

DATED at San Francisco, California, this 4th day of December, 1933.

Al Seavey

M. A. Lee

W. B. Lawrence

W. H. ...

Commissioners.