

Decision No. 27582

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
FREIGHTERS, INC.,  
a corporation, STOCKTON TRANSPORTATION  
COMPANY, a copartnership composed of  
Henry E. Hansen and Elmer M. Gormsen,  
R. H. Vehmeyer, doing business under  
the name and style of VEEMAYER TRANS-  
PORTATION COMPANY, BANJAMIN WALTERS,  
doing business under the names and  
styles of Island Transportation Com-  
pany, Island Oil Transportation Com-  
pany and Delta Transportation Company,  
HIGGINS TRANSPORTATION COMPANY, a cor-  
poration, LARKIN TRANSPORTATION COM-  
PANY, a corporation, and WOOD AND SEITZ,  
a copartnership composed of P.F. Wood  
and R.W. Seitz, for an order (1) auth-  
orizing the transfer and acquisition  
of certain public utility properties,  
(2) authorizing said Freighters, Inc.,  
to issue stock and (3) authorizing said  
applicants other than said Freighters,  
Inc. to discontinue public utility  
operations.

Application No. 19728

J. Richard Townsend, for applicants.

McCutchen, Olney, Mannon & Greene,  
by A.P. Mathew, for The River Lines,  
Intervenor.

H. W. Hobbs, for Southern Pacific Company,  
Interested Party.

W. G. Stone, for Sacramento Chamber of  
Commerce, Interested Party.

BY THE COMMISSION:

OPINION

This proceeding refers to the consolidation of eight bay  
and river boat operations into one corporate organization known as  
Freighters, Inc.

Specifically the Commission is asked in this application  
to make its order, or orders, as follows:-

1. Authorizing the transfer to Freighters, Inc., a new cor-  
poration, of the operating rights, properties and business now owned

by, or operated under the firm names and styles of, the following:-

Delta Transportation Company  
Higgins Transportation Company  
Island Oil Transportation Company  
Island Transportation Company  
Larkin Transportation Company  
Stockton Transportation Company  
Vehmeyer Transportation Company  
Wood and Seitz.

2. Authorizing the transferrers to discontinue their common carrier and public utility operations and Freighters, Inc. to succeed to and commence the operation of the respective businesses and services of the transferrers, and

3. Authorizing Freighters, Inc. to issue in payment for the rights, properties and businesses 5,748 shares of stock, consisting of 2,874 shares (\$71,850.00 par value) of seven percent cumulative preferred stock of the par value of \$25.00 a share, and 2,874 shares of common stock without par value.

Of the transferrers it appears that Higgins Transportation Company and Larkin Transportation Company are corporations; that Delta Transportation Company, Island Oil Transportation Company and Island Transportation Company are firm names and styles under which Benjamin Walters has conducted operations; that Stockton Transportation Company is the firm name and style of a co-partnership composed of Henry E. Hansen and Elmer M. Gormsen; that Vehmeyer Transportation Company is the firm name and style under which R. E. Vehmeyer has conducted operations; and that Wood and Seitz is the firm name and style of a co-partnership composed of P. F. Wood and R. W. Seitz.

It is stated in the application that each of the applicants, other than Freighters, Inc., is engaged as a common carrier by water in the transportation of freight on San Francisco, San Pablo and Suisun Bays and their tributaries, the Sacramento River and its tributaries and the San Joaquin River and its tributaries, and the records of the Commission show that each for some years past has had on file with the Commission, a tariff, or tariffs, naming rates, rules and regulations for the transportation of freight. In addition, each regularly for

some years has filed annual reports showing, among other things, his revenues and expenses.

The annual reports filed in the name of Delta Transportation Company, show no operations since 1927. The reports of the other operators, combined, show the operating revenues and the operating expenses for the calendar years 1931, 1932 and 1933, as follows:-

Item	1931	1932	1933
<u>Operating revenues:</u>			
Freight revenues.....	\$195,720.77	\$146,320.71	\$187,295.27
Other .....	537.17	523.10	526.00
Total.....	<u>\$196,257.94</u>	<u>\$146,843.81</u>	<u>\$187,821.27</u>
<u>Operating expenses:</u>			
Repairs of equipment.....	\$ 17,957.07	\$ 14,182.29	\$ 18,522.63
Depreciation .....	27,246.74	27,161.27	18,662.40
Traffic .....	4,209.30	1,511.78	941.33
Operation of vessels.....	127,335.09	100,781.50	118,844.50
Operation of terminals.....	1,028.00	1,385.82	1,950.38
Incidental operations.....	48.95	81.50	61.51
General expenses.....	42,655.44	38,022.54	45,389.63
Charter or lease expenses..	1,141.16	682.11	1,026.85
Taxes .....	550.85	321.74	212.03
Total.....	<u>\$222,172.60</u>	<u>\$184,130.55</u>	<u>\$205,611.26</u>
Net operating loss.....	<u>\$ 25,914.66</u>	<u>\$ 37,286.74</u>	<u>\$ 17,789.99</u>

The foregoing tabulation indicates that in the past the individual operations have resulted in operating losses. It is alleged that a consolidation of the individual operations, as now proposed, will eliminate unnecessary and wasteful duplication and will substitute a service conducted at a profit. To that end, therefore, the present operators have entered into an agreement, dated October 31, 1934, a copy of which is filed as Exhibit B, providing for the formation of Freighters, Inc. to take over the several businesses.

The Articles of Incorporation of Freighters, Inc., a copy of which is filed as Exhibit A, show that it was organized under the laws of the State of California on or about November 1, 1934, with an authorized capital stock of 10,000 shares, divided into 5,000 shares of

preferred stock of the par value of \$25.00 each and of the aggregate par value of \$125,000.00, and 5,000 shares of common stock without par value. Under the terms of the Articles, the preferred shares will carry cumulative dividends, payable quarterly, of \$1.75 a year, such dividends being at the rate of seven per cent of the par value, and will be redeemable on any dividend payment date at par and accrued dividends. So long as any preferred stock remains outstanding no dividend can be declared or paid upon the common stock in excess of \$1.75 a share during any period of twelve consecutive months.

Freighters, Inc., as stated, now proposes to issue 2,874 shares of preferred stock of the par value of \$71,850.00, and 2,874 shares of common stock to pay for properties of the other applicants in this matter consisting of the operative rights and seventeen pieces of floating equipment. In support of this proposal applicants have filed as Exhibit No. 6 a statement setting forth the results of an examination and appraisal by E. W. N. Bowes and Ralph S. Lorimer, marine engineers, showing as of the latter part of November, 1934, the original cost of the seventeen vessels plus improvements and betterments, at \$269,892., the estimated replacement cost at \$263,000.00, and the estimated present value after taking accrued depreciation into consideration, at \$143,700.

The record shows that the number of shares of stock applied for in the application was determined by the estimated present value of \$143,700. With this figure as a basis the proposed stock issue of 5,748 shares would be at the rate of \$25.00 a share for both common and preferred shares, it appearing that the properties in all cases would be transferred free and clear of indebtedness and encumbrances. A review of the record, particularly of the oral testimony of Mr. Bowes and Mr. Lorimer, leads us to believe that for the purpose of this proceeding the estimate of \$143,700.00 is not unreasonable.

There remains, however, for consideration in connection with the issue of stock, the earnings from the operations. On this point

F. J. Larkin, secretary of Larkin Transportation Company, and General Manager of Freighters, Inc., testified that in his opinion for the first year of operation the gross receipts of the consolidated business should amount to \$184,800.00, the expenses to \$147,120.00, consisting of \$104,720.00 for vessel operations, \$31,100.00 for overhead, officers' salaries, etc., and \$11,300.00 for rent, office expense, etc., leaving net profits of \$37,680.00. From Mr. Larkin's testimony it clearly appears that economies in operation will be effected through the proposed consolidation in such items as office and terminal expenses, operation of vessels, overhead and the like, and while we are not convinced that profits will be realized to the extent indicated, at the outset at least, in our opinion the showing made is adequate, both as to assets and earnings, to support the proposed stock issue.

At the hearing, appearances were entered for The River Lines, as intervenor, and for Southern Pacific Company as an interested party. It appears that while these two carriers did not object to the transfer of the operating rights and properties and the issue of stock, they were concerned with the nature, scope and extent of such rights. On this point, however, counsel for applicants stated the following:-

" In our discussions with The River Lines we emphasized the desirability of avoiding delay. The River Lines have suggested that if Freighters, Inc., will file and publish a tariff in the manner which I shall indicate, The River Lines will not oppose the present application or the filing or publication of such tariff or the establishment of the rates contained therein. The tariff which it has been suggested that Freighters, Inc. file with the Railroad Commission and publish as its initial tariff and the terms and conditions upon which it has been suggested that such tariff be filed are as follows:

First: The initial tariff of Freighters, Inc., to be filed with the Railroad Commission shall contain only rates on commodities which have actually been handled by the six existing carriers named in the present application, or by any one or more of such carriers, and the operation of such rates shall be confined to the points between which such commodities have moved.

Second: Such initial tariff need not be filed or published at the hearing on the pending application, but may be filed at any time prior to the commencement of operations by Freighters, Inc.

Third: Neither the publication and/or filing of such a tariff nor the omission from such tariff of any rate, either class or commodity or carload or less than carload, or the omission of any commodity or any points of origin or destination shall be, or be deemed to be, a waiver,

relinquishment or abandonment of any operating right which Freighters, Inc., or any of the existing operators named in the pending application may have at the time of filing and/or publishing such tariff or an admission by Freighters, Inc., or any of such operators that they do not possess operating rights to handle traffic not covered in and by such tariff.

Fourth: Neither the filing or publication of such a tariff nor the inclusion in such tariff of any rate, commodity or points of origin or destination shall be, or be deemed to be, a waiver, relinquishment or abandonment of the right of The River Lines to contest or attack the operating rights of Freighters, Inc., to handle traffic under any rate contained therein, or an admission by The River Lines that Freighters, Inc. has an operating right to handle traffic under any rate contained therein.

Fifth: Neither the filing, the publication nor the approval by this Commission of such tariff shall be, or be deemed to be, a determination by this Commission that Freighters, Inc., or any of the six existing operators named in the pending application has an operating right to handle traffic under any rate contained therein or has not an operating right to handle traffic other than that covered by the rates contained in such tariff.

Sixth: The filing and/or publication of such tariff shall not prevent or preclude Freighters, Inc., from, at any time thereafter, filing and/or publishing any additional rate on any traffic between any points in a supplement to such tariff, in a new tariff or otherwise. The filing and/or publishing of such additional rate or rates shall be in the manner contemplated by law and subject to the right of other parties to object thereto in the manner contemplated by law."

There is no request here made for any enlargement of any operating right or for the issue of any new certificate of public convenience and necessity and under the authority to be granted in the order following this opinion there may be transferred to Freighters, Inc. only such rights as now are possessed by the several existing operators. Such a transfer, of course, in no way will prejudice the rights of The River Lines or Southern Pacific Company in the future to question the operations of Freighters, Inc.

O R D E R

Application having been made to the Railroad Commission for an order authorizing the transfer of operating rights and properties and the issue of 5,748 shares of stock, a public hearing having been held before Examiner Geary, the matter having been submitted and the Commission being of the opinion that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through 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 expenses or to income,

IT IS HEREBY ORDERED that Higgins Transportation Company, Lerkin Transportation Company, Benjamin Walters, doing business under the firm name and style of Delta Transportation Company, Island Oil Transportattion Company and Island Transportation Company, Henry E. Hansen and Elmer M. Gormsen, co-partners doing business under the firm name and style of Stockton Transportation Company, R. E. Vehmeyer, doing business under the firm name and style of Vehmeyer Transportation Company, and P. F. Wood and R. W. Seitz, co-partners doing business under the firm name and style of Wood and Seitz, be, and they hereby are, authorized to transfer their operating rights and properties, as proposed in the application, to Freighters, Inc., such transfer to be in accordance with the terms and conditions of the agreement, dated October 31, 1934, filed as Exhibit "B", and upon the acquisition and commencement of operation thereof by Freighters, Inc. to discontinue their common carrier and public utility businesses and services.

IT IS HEREBY FURTHER ORDERED that Freighters, Inc. be, and it hereby is, authorized to succeed to and commence the operation of the rights, properties, businesses and services to be acquired by it under the authority herein granted and in payment thereof to issue on or before June 30, 1935, not exceeding 5,748 shares of stock consisting of 2,874 shares of preferred stock of the par value of \$25.

a share and the aggregate par value of \$71,850.00, and 2,874 shares of common stock.

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

1. The applicants in this proceeding who are the transferrers under the authority granted shall withdraw tariffs on file in their names, and Freighters, Inc. shall file its initial tariff in accordance with the statement of its counsel which is referred to in the foregoing opinion.
2. Freighters, Inc. shall keep such record of the issue of the stock herein authorized as will enable it to file on or before the 25th day of each month, 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.
3. Freighters, Inc. in recording the purchase of the properties on its books of account shall charge to its property and equipment accounts the sum of \$269,892.00 representing the floating equipment, plus the actual cost of any additions and improvements made between the date of the valuation of such equipment and the date of transfer, and shall credit to its reserve for accrued depreciation account the difference between the amount of said charge and the \$143,700.00 figure upon which the present stock issue is based.
4. Freighters, Inc. shall file with the Commission for each month up to and including December, 1935, a report showing its operating revenues and operating expenses, segregated to the accounts set forth in the uniform classification



of accounts prescribed for Class "B" carriers by water, and the number of tons of freight carried, such report to be filed within thirty (30) days after the close of each month.

5. The authority herein granted is not to be construed as a determination or finding of the nature, scope or extent of the operating rights to be transferred to Freighters, Inc.

DATED at San Francisco, California, this 17<sup>th</sup> day of December, 1934.

Leon Whittell

W. H. Carr

M. B. Lewis

A. H. Hartman

Franklin

Commissioners.