

Decision No. 27715

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
THE CALIFORNIA TRANSPORTATION COMPANY,)
a corporation, SACRAMENTO NAVIGATION)
COMPANY, a corporation, and FAY TRANS-)
PORTATION COMPANY, a co-partnership)
composed of Nahum Fay and Norvin Fay,)
for an order authorizing the unified)
operation of Sacramento and San Joaquin)
River transportation service.)

ORIGINAL

Application No. 17898

McCutchen, Olney, Mannon & Greene and Allan P.
Matthew, F. W. Mielke and John O. Moran,
for applicants.

BY THE COMMISSION:

FIRST SUPPLEMENTAL OPINION

The Commission by Decision No. 24420 dated January 25, 1932, as amended, authorized California Transportation Company, Sacramento Navigation Company and Fay Transportation Company to unify their operations under the name of "The River Lines". The operations, it is said, have been conducted under the terms and conditions of an agreement dated January 9, 1932. Applicants desire to continue the unified operations, but under a new agreement dated January 12, 1935. A copy of the new agreement marked "Exhibit A" is attached to the supplemental petition filed January 15, 1935. Applicants ask the Commission to enter its order approving the agreement of January 12, 1935 and authorizing the unified operation of the transportation services of the applicants in the manner contemplated by the said agreement of said January 12, 1935, and that such other order or orders be made by the Commission as it may find to be reasonable and just in the premises.

The agreement of January 12, 1935 differs in several respects from the agreement now in effect. We do not deem it necessary to call attention to all of the differences or to all of the terms and conditions of the agreement. Some of the terms and conditions affect only the rights of those who are parties to the agreement, while others, depending upon what construction is placed upon them, may affect the rights of other utilities or constitute a modification of former decisions of the Commission.

The agreement provides that The River Lines "as so styled shall be defined as a management agent or agency of the unified operations". The administration of the activities and duties arising out of the agreement shall be through agents designated by the respective parties to the agreement. Four of these representatives shall be appointed by The California Transportation Company and two each by each of the other parties. The representatives shall act as the administrative agency of the unified operation undertaken by the parties, and that administrative agency shall be and is designated as the "Board of Control." Five members of the Board shall constitute a quorum for the transaction of business. The Board of Control shall be the final authority with respect to the general conduct of the business of The River Lines.

The agreement provides that the net operating income of The River Lines, as defined in the agreement, is to be distributed as follows:-

To The California Transportation Company	50%
To Sacramento Navigation Company	26%
To Fay Transportation Company	24%

It also provides that when necessary The River Lines may engage in the warehousing of and delivery and receipt of goods at industries, wharves, depots and other places, from time to time served by The River Lines. The order herein should not be construed as authorizing The River Lines or any of the applicants a right to conduct a warehouse business in San Francisco or Oakland. Under the agreement

The River Lines is given a license to use and employ the strips of land situate between the Sacramento River Warehouse Company's warehouses and the Sacramento River. We have no objection to The River Lines being given access to such warehouses, but we are not hereby approving or disapproving the arrangements whereby other carriers have been prevented from securing cargo from the said warehouses. (Vol. 26, C.R.C., page 18.)

The agreement further provides that the Board of Control shall maintain books of accounts of The River Lines in accordance with the best accepted accounting practise. This Commission by Decision No. 11260, dated November 23, 1922, directed carriers by water to keep their accounts in a certain manner. We expect The River Lines and the parties to the agreement to comply with that order. Whatever authority is granted herein, does not modify in any way said Decision No. 11260 dated November 23, 1922.

It appears from the agreement that the title to certain equipment may be placed in a new non-profit corporation. The agreement does not show how the purchase of the new equipment will be financed, nor does it reveal the terms and conditions under which The River Lines will be given the right to use such equipment. The records showing the cost of the equipment of the new company and the terms under which The River Lines may use the same, should at all times be available to the Commission or its representatives.

THIRD SUPPLEMENTAL ORDER

The Commission having considered the request of applicants in the supplemental application filed on January 15, 1935, and being of the opinion that this is not a matter on which a hearing is necessary, and that said supplemental application should be granted, as herein provided and not otherwise, therefore,

IT IS HEREBY ORDERED that The California Transportation Company, a corporation, Sacramento Navigation Company, a corporation, and Fay Transportation Company, a co-partnership composed of Nahum Fay and Norvin Fay, may execute an agreement similar in its terms to the agreement marked "Exhibit A" and attached to the supplemental petition filed in this proceeding on January 15, 1935, and unify their operations in accordance with the terms of said agreement; provided, that the authority herein granted does not confer upon The California Transportation Company, a corporation, or on Sacramento River Navigation Company, a corporation, or upon Fay Transportation Company, a co-partnership composed of Nahum Fay and Norvin Fay, permission to transfer any properties, nor shall such authority be construed as being a grant of any new operative rights of any character or as relieving the respective parties to said agreement of any of their several and distinct public utility obligations except that the operating revenues and operating expenses of their unified operations, as herein authorized, may be reported under The River Lines; and provided further that nothing contained in this order is intended to modify or amend Decision No. 11260 dated November 23, 1922; and provided further that the Commission and its representatives be at all times accorded the opportunity to examine the accounts and records of the parties to said agreement and of said The River Lines.

IT IS HEREBY FURTHER ORDERED that the authority herein granted will become effective upon the date hereof.

DATED at San Francisco, California, this 31st day of

January, 1935.

Commissioners.