

Decision No. 32289

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of R. G. KNOLL, an individual, to sell and transfer and of KNOLL TRANSPORTATION, a corporation, to acquire certificates of public convenience and necessity issued by this Commission in Decisions numbered 24416 and 27015, as amended by Decision No. 27128, in exchange for stock.

**ORIGINAL**

Application No. 22931

BY THE COMMISSION:

O P I N I O N

R. G. Knoll, an individual, has petitioned the Railroad Commission for an order approving the sale and transfer by him to Knoll Transportation, a corporation, of operative rights for the transportation of property as a highway common carrier, between Los Angeles and other points in Southern California. In consideration for the transfer of such rights, Knoll Transportation proposes to issue 100 shares of its no par value stock.

The records of the Commission show that the operative rights obtained by R. G. Knoll under the authority granted by Decision No. 24416, were purchased from Davies Warehouse Company and that the rights obtained by him under authority granted by Decision No. 27015, as amended by Decision No. 27128, were granted to him upon his application to the Commission following numerous hearings and rehearings thereon.

In this present application, R. G. Knoll now reports that he expended \$9,000.00, as the purchase price, in acquiring the rights

represented by Decision No. 24416, and \$50.00 for tariff filing expenses, and that he expended \$5,934.36 for attorneys' fees and other services in acquiring the rights granted by Decision No. 27015, as amended, these items aggregating \$14,984.36 which he represents is the cost to him of obtaining the rights he now proposes to transfer to the corporation, applicant herein.

The Commission has held, in connection with orders authorizing the issue of securities, that it will permit the capitalization of only such amounts as were expended by the original holders of operative rights in obtaining them, and that it has no authority to authorize the capitalization of purchase prices paid by subsequent holders. We do not believe, therefore, that the \$9,000.00 purchase price paid by applicant Knoll, referred to in this proceeding, is a proper basis for an order authorizing the issue of stock, nor do we believe that Knoll Transportation in setting up its books of account should record as the cost of its operative rights the purchase price which R. G. Knoll may have paid a former owner of such rights.

It clearly appears, however, that substantial amounts for legal services were expended sufficient to warrant the issue of the 100 shares of stock as now proposed. The requests of applicants accordingly will be granted. It appears that a public hearing is not necessary.

Knoll Transportation is hereby placed 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 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 to the number of rights which may be given.

## O R D E R

IT IS ORDERED that R. G. Knoll is hereby authorized to transfer to Knoll Transportation, a corporation, the operative rights as referred to in the opinion of this decision; and Knoll Transportation is hereby authorized to acquire said operative rights and to hereafter operate thereunder.

IT IS FURTHER ORDERED, that Knoll Transportation be, and hereby is authorized to issue, on or before December 31, 1939, not exceeding 100 shares of its no par value capital stock in acquiring the operative rights which R. G. Knoll herein is authorized to transfer to it, it being the opinion of the Commission that the money, property, or labor to be procured or paid for through such issue is reasonably required for the purpose specified herein, and that the expenditures for such purpose are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The authority herein granted is subject to the following conditions:

1. The authority herein granted shall lapse and be void if the parties hereto shall not have complied with all the conditions within the periods of time fixed herein, unless, for good cause shown, the time shall be extended by further order of the Commission.
2. The consideration to be paid for the property herein authorized to be transferred shall never be urged before this Commission, or any other rate fixing body, as a measure of value of said property for rate fixing, or for any purpose other than the transfer herein authorized.
3. Applicant R. G. Knoll shall within twenty (20) days after the effective date of the order herein unite with applicant Knoll Transportation in common supplement to the tariffs on file with the Commission, covering service given under the certificate herein authorized to be transferred, applicant Knoll withdrawing and applicant Knoll Transportation accepting and establishing such tariffs and all effective supplements thereto.

4. Applicant Knoll shall within twenty (20) days after the effective date of the order herein withdraw all time schedules filed in his name with the Railroad Commission and applicant Knoll Transportation shall within twenty (20) days after the effective date of the order herein file, in duplicate, in its own name time schedules covering service heretofore given by applicant Knoll, which time schedules shall be identical with the time schedules now on file with the Railroad Commission, in the name of applicant Knoll, or time schedules satisfactory to the Railroad Commission.
5. The rights and privileges herein authorized may not be sold, leased, transferred nor assigned, nor service thereunder discontinued, unless the written consent of the Railroad Commission to such sale, lease, transfer, assignment or discontinuance has first been obtained.
6. No vehicle may be operated by applicant Knoll Transportation unless such vehicle is owned by said applicant or is leased by it under a contract or agreement on a basis satisfactory to the Railroad Commission.
7. Applicant shall, prior to the commencement of service authorized herein and continuously thereafter, comply with all of the provisions of this Commission's General Order No. 91.
8. Within thirty (30) days of the issue of the stock herein authorized, Knoll Transportation shall file with the Commission a report showing the amount of stock issued, the names of those to whom it was issued, the consideration received and the journal entry, or entries, by which it recorded on its books of account the issue of the stock and the acquisition of the operative rights as herein authorized, the Commission reserving the right to require applicant to adjust said figures in the future as it deems such adjustment proper.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 30<sup>th</sup> day of August, 1939.

Raymond A. ...  
James H. ...

Justus J. ...  
COMMISSIONERS