

Decision No. 36860

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of WELLS TRANSPORTATION, INC. and WELLS TRUCKWAYS, LTD. for authority to merge WELLS TRANSPORTATION, INC. into WELLS TRUCKWAYS, LTD., for WELLS TRUCKWAYS, LTD. to issue stock, and for the transfer of all of the property and certificates of public convenience and necessity of WELLS TRANSPORTATION, INC. to WELLS TRUCKWAYS, LTD.

ORIGINAL

Application
No. 25979

BY THE COMMISSION:

O P I N I O N

In this application Wells Transportation, Inc. and Wells Truckways, Ltd. ask the Commission to approve a merger agreement similar in form to the merger agreement filed in this application as Exhibit B. The merger agreement, among other things, provides for the merging of Wells Transportation, Inc. into Wells Truckways, Ltd., the surviving corporation. Applicants also ask the Commission to authorize Wells Transportation, Inc. to transfer its certificate of public convenience and necessity and properties to Wells Truckways, Ltd. in accordance with the plan of merger and authorize Wells Truckways, Ltd. to issue \$20,000 of its capital stock.

Wells Transportation, Inc. is a California corporation and a common carrier for the transportation of livestock.

It operates under a certificate of public convenience and necessity granted by Decision No. 32673, dated December 19, 1939, in Applications No. 22243 and 22467.

Wells Truckways, Ltd. is a California corporation and a highway carrier under permits issued by the Commission. It operates as a radial highway common carrier, a highway contract carrier and a city carrier. It also operates under Interstate Commerce Commission authorization.

Wells Truckways, Ltd. has issued five (5) shares (\$500) of capital stock, all of which is owned by Wells Transportation, Inc. Wells Transportation, Inc. has issued and outstanding \$20,000 of capital stock, all of which is owned by Othal P. Wells. Othal P. Wells will, upon the merger of the two corporations, surrender the stock of Wells Transportation, Inc. and receive in exchange therefor 200 shares of the par value of \$100 each of stock of Wells Truckways, Ltd. The shares of stock of Wells Transportation, Inc. will thereupon be cancelled.

The following statement shows the assets and liabilities of Wells Truckways, Ltd. and of Wells Transportation, Inc. as of October 31, 1943, assuming the merger was in effect as of that date:

ASSETSCURRENT ASSETS

Cash		\$-1,037.82	
Working Funds		905.00	
Special Deposits		6,516.00	
Accounts Receivable-Trade	\$48,780.52		
Less: Reserve for Uncollectible A/C	<u>2,135.63</u>	46,644.89	
Accounts Receivable-Other		1,014.51	
Inventories		<u>832.75</u>	
TOTAL CURRENT ASSETS			\$ 54,875.33

TANGIBLE PROPERTY

Plant, Property & Equipment	186,888.90		
Less: Reserve for Depreciation	<u>93,712.88</u>		
TOTAL TANGIBLE PROPERTY			93,176.02

INTANGIBLE PROPERTY

Goodwill		2,245.27	
Organization, Franchises & Permits (ICC Permit)		<u>30,000.00</u>	
TOTAL INTANGIBLE PROPERTY			32,245.27

DEFERRED DEBITS

Prepaid Taxes & Licenses		1,935.24	
Prepaid Taxes-Other		102.81	
Prepaid Insurance-Other		393.19	
Prepaid Tire Expense		13,154.71	
Prepaid Interest		1,359.11	
Accrued Rent-Leased Property		<u>100.00</u>	
TOTAL DEFERRED DEBITS			17,045.06
TOTAL ASSETS			<u>\$197,341.68</u>

LIABILITIES, CAPITAL STOCK & SURPLUSCURRENT LIABILITIES

Notes Payable			\$ 1,500.00
Accounts Payable			38,843.35
Employees' Pay roll Deductions			516.31
C.O.Ds. Uncollected			4,082.00
Wages Payable			404.48
Taxes Accrued			5,375.59
Insurance Accrued			2,286.08
Provision for Income Taxes			<u>890.40</u>
TOTAL CURRENT LIABILITIES			53,898.21

ADVANCES PAYABLE

Other Advances Payable (O.P. Wells)			4,986.40
-------------------------------------	--	--	----------

EQUIPMENT & OTHER LONG-TERM OBLIGATIONS

Equipment Obligations	Due within 1 year	46,613.00	
	Not due " 1 "	<u>3,981.00</u>	50,594.00
Other Long-Term Obligations	Due within 1 year	4,500.00	
	Not due within 1 year	<u>27,511.91</u>	32,011.91

DEFERRED CREDITS

Other Deferred Credits			1,327.40
------------------------	--	--	----------

CAPITAL STOCK

Common Capital Stock			20,000.00
----------------------	--	--	-----------

UNAPPROPRIATED SURPLUS

Earned Surplus			34,523.76
TOTAL LIABILITIES			<u>\$197,341.68</u>

For the purpose of this proceeding, no value is recognized in the I.C.C. permit. This is a permit acquired by Wells Truckways, Ltd. from a predecessor corporation at a cost of \$30,000. About \$18,000 of the purchase price remains unpaid. In our opinion, the \$30,000 should be amortized by charges to surplus within ten years after the execution of the merger agreement. The Order will require that such be done.

For the period, January 1, 1943 to October 31, 1943, Wells Truckways, Ltd. reports operating revenues of \$209,445.68. For this period it shows a loss of \$4,110.37. Wells Transportation, Inc. for the period, December 1, 1942 to October 31, 1943, shows operating revenues of \$349,438.94 and a profit of \$27,037.87.

The merger of the two corporations will unify their operations and will make it possible to use automotive equipment more fully in that it can be distributed over all of the operations of the two companies. The present lease arrangements and insurance requirements make the ready transfer of equipment from one operation to the other expensive and time consuming. Moreover, economies in operation will result because of a decrease in overhead expenditures for accounting and office expense. An improvement in service should follow from the merger of the two companies. It will be observed that the merger of the two companies will not result in any increase in the outstanding stock. The Commission has heretofore authorized Wells Transportation, Inc. to issue the \$20,000 of stock for which it is now proposed to substitute

\$20,000 of stock of Wells Truckways, Ltd. The assets of the merged company are sufficient to support such a stock issue.

We believe that the merger of the two companies is in the public interest and that this application should be granted subject to the provisions of this Opinion and Order. We, however, place Wells Truckways, Ltd. upon notice that operative rights as such do not constitute a class of property which may be capitalized or used as an element of value for rate fixing or for any amount of money in excess of that originally paid to the State in consideration for the granting of such right. 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

The Commission having considered the request of Wells Transportation, Inc. and Wells Truckways, Ltd. and it being of the opinion that this is not a matter on which a hearing is necessary; that the money, property or labor to be procured or paid for by the issue of \$20,000 of capital stock by Wells Truckways, Ltd. is reasonably required by Wells Truckways, Ltd. for the purpose herein stated, and that the expenditures for said purpose are not, in whole or in part, reasonably chargeable to operating expenses or to

income and that this application should be granted subject to the provisions of this Order, therefore,

IT IS HEREBY ORDERED as follows:

1. Wells Transportation, Inc. and Wells Truckways, Ltd. may, after the effective date hereof and on or before April 30, 1944, execute a merger agreement similar in form to the merger agreement filed in this application as Exhibit B.
2. To carry such merger agreement into effect, Wells Transportation, Inc. may, after the effective date hereof and on or before April 30, 1944, transfer to Wells Truckways, Ltd., the surviving corporation, all of its properties including the certificate of public convenience and necessity granted by Decision No. 32673, dated December 19, 1939, in Applications No. 22243 and 22467. Wells Truckways, Ltd. may acquire and operate said properties including said certificate of public convenience and necessity.
3. Wells Truckways, Ltd. may, after the effective date hereof and on or before April 30, 1944, issue \$20,000 of its capital stock for the purpose and under the terms and provisions set forth in the merger agreement.
4. Wells Truckways, Ltd. and Wells Transportation, Inc. shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A by filing in triplicate and concurrently making effective tariffs and time tables satisfactory to the Commission within sixty (60) days from the effective date hereof and on not less than one day's notice to the Commission and to the public.
5. The authority herein granted is subject to the

condition that Wells Truckways, Ltd. shall, if said merger agreement is carried into effect, amortize, within ten years after the effective date of said merger agreement, by charges to surplus, said \$30,000 paid for said Interstate Commerce Commission permit, said charges to surplus to be not less than \$3,000 per annum.

6. Within thirty (30) days after the execution of said merger agreement, Wells Truckways, Ltd. shall file with the Commission two verified copies of said merger agreement together with a statement showing the amount of stock issued under the authority herein granted and to whom said stock was issued.

7. The authority herein granted will become effective fifteen (15) days after the date hereof.

Dated at San Francisco, California, this 5th day of February, 1944.

Richard L. Ladd

Justin F. Coenen
Frank R. Havens
Emma O. O'Connell
Commissioners.