

Decision No. 39347

BEFORE THE RAILROAD COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of FOSTER TRANSPORTATION, INCORPORATED for an order authorizing the issue of stock and the transfer of all assets and liabilities from FOSTER TRANSPORTATION COMPANY to FOSTER TRANSPORTATION, INCORPORATED.

ORIGINAL

Application No. 27686

OPINION AND ORDER

Charles Milton Foster, Charles Howe Foster and George Edward Foster are co-partners engaged, under the firm name and style of Foster Transportation Company, in operating motor vehicles for the transportation of passengers within and between the Cities of Alhambra and San Gabriel and the communities of Wilmar and Garvey in the adjacent county area. (1)

The partnership's properties include certificates of public convenience and necessity granted by the Commission by Decision No. 34456, dated July 29, 1941; Decision No. 35671, dated August 11, 1942, and Decision No. 36834, dated January 25, 1944, twelve units of automotive equipment and machinery, tools, furniture, and miscellaneous equipment. The assets and liabilities of the business as of April 30, 1946, are reported as follows:

(1) The carrier's financial reports show revenues and expenses as follows:

<u>Year</u>	<u>Revenues</u>	<u>Expenses</u>	<u>Net</u>
1943	\$ 54,923.04	\$ 45,523.60	\$ 9,399.44
1944	59,502.65	55,348.96	4,153.69
1945	66,060.70	58,245.82	7,814.88
1946 (Jan. 1-Apr. 30)	22,854.61	21,555.25	1,299.36

Assets

Current assets:-		
Cash and working funds	\$ 61.96	
Accounts receivable	<u>144.49</u>	206.45
Property and investments:-		
Revenue equipment	43,779.21	
Machinery & tools	441.50	
Furniture	419.61	
Miscellaneous	<u>1,338.14</u>	
	45,978.46	
Less reserves for depreciation	<u>17,103.93</u>	28,874.53
Deferred debits:-		
Prepayments		<u>4,674.77</u>
	Total	<u>\$ 33,755.75</u>

Liabilities

Current liabilities:		\$ 1,651.93
Equipment obligations		24,116.04
Partnership capital		<u>7,987.78</u>
	Total	<u>\$ 33,755.75</u>

It appears that the present owners desire to incorporate their business and to that end have caused the organization of Foster Transportation, Incorporated, to take over their partnership interests, in exchange for stock, and thereafter to conduct the operations. Application accordingly has been made to the Commission for an order authorizing the transfer of the rights and properties and the issue of stock in payment.

The Commission has considered this matter and is of the opinion that a public hearing is not necessary, that the transfer of the operative rights and properties should be granted, as herein provided, and that the issue of \$8,000 of stock should be authorized, it appearing to the Commission that the money, property or labor to be procured or paid for through said issue is rea-

sonably 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. In entering the order herein, the Commission is not making a finding of the value of the rights and properties herein authorized to be transferred. Further, Foster Transportation, Incorporated, is hereby placed 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 in rate fixing for any amount of money in excess of that originally paid to the State as the consideration for the grant of such rights. 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.

Therefore, Good Cause Appearing,

IT IS HEREBY ORDERED as follows:

1. Charles Milton Foster, Charles Howe Foster and George Edward Foster, doing business as Foster Transportation Company, a partnership, after the effective date hereof and on or before December 31, 1946, may transfer to Foster Transportation, Incorporated, the operative rights and properties referred to herein.

2. Foster Transportation, Incorporated, after the effective date hereof and on or before December 31, 1946, may in payment for such rights and properties, assume the payment of said outstanding indebtedness of Charles Milton Foster, Charles Howe

Foster and George Edward Foster doing business under the name of Foster Transportation Company, a partnership, and issue \$8,000 per value of its common capital stock.

3. Applicants shall comply with the provisions of General Order No. 79, and Part IV of General Order No. 93-A by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and to the public.

4. Foster Transportation, Incorporated, shall file a report of the issue of the stock as required by the Commission's General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

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

Dated at Los Angeles, California, this 22nd day of August, 1946.

Harold P. Kels

Justice F. Cooper
Arthur W. Stone

Irving K. Kovel

R. F. Anderson
Commissioners