

ORIGINAL

Decision No. 39991

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of)
 J. HILLS WYTHE, WM. G. WAHL and R. E. HOERLER,)
 d.b.a. SECURITY TRUCK LINE to sell and SECURITY)
 TRUCK LINE, a corporation, to acquire highway)
 common carrier operative rights and physical)
 property.) Application
 No. 28207

Application of)
 SECURITY TRUCK LINE, a corporation, for an)
 order authorizing the issuance of capital stock.)
 -----)

O P I N I O N

In this application, J. Hills Wythe, Wm. G. Wahl and R. E. Hoerler, copartners doing business as Security Truck Line, ask permission to sell to Security Truck Line, a corporation, their operative rights, physical properties and business. The corporation asks permission to issue 1,845 shares of common stock for the purposes hereinafter stated.

The Commission by Decision No. 17548, dated October 29, 1926, in Application No. 11660, by Decision No. 20251, dated September 21, 1928, in Application No. 15013, by Decision No. 20397, dated October 29, 1928, in Application No. 15139, by Decision No. 25632, dated February 14, 1933, in Application No. 18689, and by Decision No. 28091, dated July 3, 1935, in Application No. 20043, authorized applicants J. Hills Wythe, Wm. G. Wahl and R. E. Hoerler to acquire or granted to them certificates of public convenience and necessity to conduct common carrier

transportation services as outlined in said decisions.⁽¹⁾ In addition to engaging in common carrier transportation service, said applicants also perform transportation service under permits granted to them under the Highway Carriers' Act and the City Carriers' Act. They are also engaged in the warehouse business at San Jose. Each partner has a one-third interest in the partnership assets and business.

The records of the partnership show that for 1946 it did a gross business of \$280,710.55. Of this sum, about seven per cent was obtained from certificated operations. Its net income transferred to partnership capital for the year amounted to \$35,638.73. As of December 31, 1946, the partnership reports assets and liabilities as follows:

<u>Assets</u>		
Current Assets		
Cash	\$17,862.00	
Working funds	130.00	
Special deposit	2,077.00	
Accounts receivable-net	38,548.00	
Material and supplies	12,705.00	
Other current assets	<u>4,629.00</u>	
Total current assets		\$ 75,951.00
Carrier operating property	169,751.00	
Less reserve for depreciation	<u>94,160.00</u>	75,591.00
Non-carrier operating property	44,379.00	
Less reserve for depreciation	<u>8,059.00</u>	36,320.00
Non-operating property	13,000.00	
Less reserve for depreciation	<u>942.00</u>	12,058.00
Organization, franchises and permits		5,890.00
Other investment and advances (unpledged)		8,500.00
Prepayments		5,722.00
Other deferred debits		<u>393.00</u>
Total assets		<u>\$220,425.00</u>

(1) The northern terminus of the certificated operation is San Francisco and the southern, Salinas. The certificates contain certain restrictions as to commodities, routes and points of service.

Liabilities

Current Liabilities		
Notes payable	\$20,500.00	
Accounts payable	29,308.00	
Taxes accrued	<u>1,500.00</u>	
Total current liabilities		\$ 51,308.00
Other advances payable		8,000.00
Other long term obligation		16,067.00
Other reserves		750.00
Partnership capital		<u>144,300.00</u>
Total liabilities		<u>\$220,425.00</u>

Security Truck Line, a corporation, was incorporated on November 13, 1946, under the laws of California. It has an authorized stock issue of 5,000 shares of the par value of \$100 each. It asks permission to issue 1,845 shares of its stock for the following purposes:

<u>To Be Issued To And Purpose</u>	<u>No. Shares</u>	<u>Par Value</u>
J. Hills Wythe, Wm. G. Wahl and R. E. Hoerler, d.b.a. Security Truck Line, for acquisition of their business . . .	1,443 . . .	\$144,300.00
William F. Doran, additional capital	134 . . .	\$ 13,400.00
Albert F. Hoerler, additional capital	134 . . .	\$ 13,400.00
Samuel L. Evans, additional capital	<u>134 . . .</u>	<u>\$ 13,400.00</u>
Total	1,845 . . .	\$184,500.00

The amount of stock to be issued to J. Hills Wythe, Wm. G. Wahl and R. E. Hoerler is equal in amount to the partnership capital as shown in the preceding balance sheet. The corporation will assume all of the liabilities of the partnership.

William F. Doran, Albert F. Hoerler and Samuel L. Evans are employees of the partnership. The partners find it

desirable to give them a proprietary interest in the corporation. They have therefore concluded to have the corporation issue to each of them \$13,400 par value of stock. In turn, each of them will pay to the corporation \$1,000 in cash and deliver to the corporation their promissory note for \$12,400. The stock certificates will be held by the corporation as security for the payment of the notes. The three individuals will apply to the payment of the notes any dividends paid on the stock. They will also have the right to pay the notes at any time. Upon the payment of the notes, the stock certificates will be delivered to them. The stock proceeds will be used for working capital.

No change in the management of the business will follow the transfer of the properties from the partnership to the corporation. The corporation will adopt the tariffs of the partnership and comply with all the provisions of the certificates of public convenience and necessity, as well as with the outstanding minimum rate orders of the Commission. No consolidation of operative rights is involved.

A copy of the purchase agreement is on file in this application as Exhibit "B".

Security Truck Line, a corporation, 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.

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

O R D E R

The Commission has considered applicants' requests and is 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 through the issue of the stock herein authorized is reasonably required by Security Truck Line, a corporation, for the purposes herein stated, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, and that this application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. J. Hills Wythe, Wm. G. Wahl and R. E. Hoerler, copartners doing business under the name and style of Security Truck Line, may, after the effective date hereof and on or before April 30, 1947, sell and transfer to Security Truck Line, a corporation, the properties, including the operative rights covered by the decisions mentioned in the foregoing opinion, used in the conduct of the business of said partnership. Said Security Truck Line, a corporation, may acquire said properties and operative rights, and operate thereunder.

2. Security Truck Line, a corporation, may, after the effective date hereof, issue to J. Hills Wythe, Wm. G. Wahl and R. E. Hoerler, copartners, in payment for said operative rights, properties and business, \$144,300 par value of its common capital stock. It may also issue at par to William F. Doran \$13,400 par value of stock, to Albert F. Hoerler \$13,400 par value of stock, and to Samuel L. Evans \$13,400 par value of stock. Each of them shall pay to Security Truck Line, a corporation, not less than \$1,000 in cash and deliver to Security Truck Line, a corporation, their three per cent promissory notes for the balance due on the stock. Security Truck Line, a corporation, shall retain the stock as security for the payment of the notes. The proceeds realized from the issue of said shares of stock to William F. Doran, Albert F. Hoerler and Samuel L. Evans shall be used by Security Truck Line, a corporation, to maintain its service.

3. Applicants 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, 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. Security Truck Line, a corporation, shall file with the Commission a report, or reports, 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 is effective upon the date hereof.

Dated at San Francisco, California, this 25th day
of February, 1947.

Harold P. Kule
Justice J. Cassner
Dean Russell
A. F. Johnson
Samuel H. Potter
Commissioners