

Decision No. 40370

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of ALFRED JOSEPH BATTEATE, doing
business as BATTEATE LIVESTOCK
TRANSPORTATION, to transfer
Certificates of Public Convenience
and Necessity, and of ALFRED
JOSEPH BATTEATE and A. J. BATTEATE,
JR., co-partners doing business as
BATTEATE LIVESTOCK TRANSPORTATION,
to transfer assets to BATTEATE
LIVESTOCK TRANSPORTATION CO., a
corporation, and of BATTEATE
LIVESTOCK TRANSPORTATION CO., a
corporation, to issue stock.

ORIGINAL

Application
No. 28365

OPINION AND ORDER

This is an application for an order of the Public Utilities Commission authorizing Alfred Joseph Batteate and A. J. Batteate, Jr., to transfer highway common carrier operating rights and properties to Batteate Livestock Transportation Co., a corporation, and authorizing said corporation to issue \$50,000 of stock.

The application sets forth that Alfred Joseph Batteate is the owner of a certificate of public convenience and necessity, which was granted by the Commission by Decision No. 32673, dated December 19, 1939, authorizing operations as a highway common carrier of livestock between numerous points in California. It is reported that heretofore said Batteate transferred a one-half interest in the business to A. J. Batteate, Jr., but through inadvertence failed to apply for and to obtain authorization from this Commission for the transfer. At any event, the business now is being operated as a partnership under the firm name and style of Batteate Livestock Transportation.

Annual reports filed with the Commission show the operating revenues of the business at \$146,102 in 1944, at \$186,673 in 1945 and at \$272,753 in 1946, and the net income, before provision for income taxes, at \$20,612 in 1944, at \$39,982 in 1945 and at \$53,317 in 1946. The assets and liabilities, as of December 31, 1946, are reported as follows:

ASSETS

<u>Current assets</u>		
Cash in bank	\$13,886.94	
Accounts receivable	8,040.40	
Due from employees	3,090.71	
Miscellaneous advances	<u>2,122.96</u>	
Total current assets		\$ 27,141.01
<u>Fixed assets</u>		
Property and equipment	268,915.16	
Less-depreciation reserve	<u>84,075.76</u>	
Total fixed assets		184,839.40
<u>Deferred assets</u>		
		<u>8,478.86</u>
Total assets		<u>\$220,459.27</u>

LIABILITIES

<u>Current liabilities</u>		
Accounts payable	\$22,997.10	
Accrued taxes	<u>18,340.41</u>	
Total current liabilities		\$ 41,337.51
<u>Other liabilities</u>		
Equipment obligations	87,729.00	
Mortgages	12,000.00	
Deferred credits	<u>74.13</u>	
Total other liabilities		99,803.13
<u>Net worth</u>		<u>79,318.63</u>
Total liabilities		<u>\$220,459.27</u>

It appears that the present operators desire to have the business conducted by a corporate entity and therefore have caused the organization of Batteate Livestock Transportation Co., a corporation, to receive and hereafter to operate the business and properties. Said corporation, subject to receiving permission from the Commission, proposes to take over all the assets and business

of Batteate Livestock Transportation to assume the obligations and to issue \$50,000 par value of its stock. The application indicates that it is the intention of the corporation to take over the book accounts of vendors and, based on their balance sheet of December 31, 1946, hereinabove set forth, to carry the excess of the partnership's net worth over the par value of the stock issued, amounting to \$29,318.63, as contributed surplus.

We have no objection to the proposed transfer and stock issue nor to the accounting treatment, except that we believe that the \$29,318.63 item should be set up as a credit balance in Account 2900, Unearned Surplus. We are advised that upon the conclusion of the transaction it is the intention of the corporation to make a further application to the Commission to incur additional indebtedness.

Batteate Livestock Transportation Co. 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 Commission has considered this matter and is of the opinion that a public hearing is not necessary, that the application should be granted, as herein provided, and that the money, property or labor to be procured or paid for through the issue of \$50,000 of stock is reasonably required for the purpose

specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. Alfred Joseph Batteate, after the effective date hereof and on or before August 31, 1947, may transfer to Batteate Livestock Transportation Co. the certificate of public convenience and necessity granted to him by Decision No. 32673, dated December 19, 1939, and Alfred Joseph Batteate and A. J. Batteate, Jr. may transfer to Batteate Livestock Transportation Co., the properties and business referred to herein.

2. Batteate Livestock Transportation Co. may acquire said certificate and said properties and business and, in payment, assume the outstanding liabilities and issue not exceeding \$50,000 par value of its common capital stock.

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

Dated at San Francisco, California, this 10th day
of June 1947.

Harold P. Hills

Justin F. Casper
Wesley Powell

A. F. Johnson

Kenneth Lott

Commissioners