Decision No. 40635

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of
SIMMONS TRANSFER LINE,
a corporation,
For an Order authorizing issue
of shares, and to transfer
Prescriptive Highway Common
Carrier Operating Rights, and
to issue notes.

ORIGINAL

Application
No. 28654

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OPINION

This application shows that James W. Simmons, Jr. and Paul N. Sommer, co-partners doing business under the firm name and style of Simmons Transfer Line, are engaged in the operation of a highway common carrier service between Los Angeles, Culver City and Palms. Their latest annual report to the Commission shows, for the year 1946, operating revenues of $27,697.91 and operating expenses of $24,657.89, leaving net operating income of $3,040.02. They report their net worth, as of June 30, 1947, at $10,565.86.

It appears that Simmons and Sommer have concluded to incorporate their business and accordingly have caused the organization, on or about July 1, 1947, of Simmons Transfer Line, a corporation, which will take over and continue the present operations. The record shows, however, that while the present business has been conducted by a partnership, the operative rights stand in the name of James W. Simmons, Jr. These are prescriptive rights which were acquired by said Simmons pursuant to authorization granted by Decision No. 37298, dated August 29, 1944.

Under the terms of an agreement dated July 1, 1947 which is filed as Exhibit "C", James W. Simmons, Jr. has agreed to transfer his operative rights and the partnership of Simmons and Sommer have agreed to transfer their assets and business, subject to outstanding liabilities as of June 30, 1947, to the new corporation in exchange for stock and notes in the aggregate amount of $10,565.86. The assets and liabilities to be transferred are reported as follows:

Assets		
Cash on hand and in bank		$ 51.01
Accounts receivable		2,244.08
Fixed assets-		
Cost	$24,133.03	
Reserve for depreciation	4,232.47	19,900.56
Prepaid expenses		887.52
Total assets		$23,083.17
Liabilities		
Notes payable		$ 3,467.16
Equipment purchase contracts		6,757.64
Taxes payable		954.23
Accounts payable		1,338.28
Total liabilities		$12,517.31
Net Worth		
Paul H. Sommer	$ 5,909.91	
James W. Simmons, Jr.	4,655.95	10,565.86
Total liabilities and net worth		$23,083.17

In payment for the properties the corporation has agreed to assume the outstanding liabilities and to issue its stock and notes as follows:

Stock:	6500 shares of the par value of $1 each to James W. Simmons, Jr. and Paul N. Sommer in equal proportions	$6,500.00
Notes:	1 year, 4%, unsecured notes - to James W. Simmons, Jr.	1,405.95
	To Paul N. Sommer	2,659.91
	Total	$10,565.86

The order herein will authorize the transfer of the rights and properties and the issue of the stock. Because the notes are unsecured and by their terms run for one year only, the corporation may issue them without obtaining authorization from this Commission although any subsequent renewals, if that becomes necessary or desirable, must be first authorized. In making the present order, we wish to place applicants 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 order should not be construed to be a finding of value of the rights and properties herein authorized to be transferred.

O R D E R

Application having been made to the Public Utilities Commission for an order authorizing the transfer of operative rights and properties and the issue of stock and notes, and the Commission having considered the matter and being 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 said 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. James W. Simmons, Jr., after the effective date hereof and on or before December 31, 1947, may transfer to Simmons Transfer Line, a corporation, the operative rights acquired by him pursuant to authorization granted by Decision No. 37298, dated August 29, 1944.

2. James W. Simmons, Jr. and Paul N. Sommer, after the effective date hereof and on or before December 31, 1947, may transfer to Simmons Transfer Line, a corporation, their right, title and interest in and to the business known as Simmons Transfer Line, together with all its assets and all its liabilities.

3. Simmons Transfer Line, a corporation, after the effective date hereof and on or before December 31, 1947, in part payment for such rights and assets, may assume the payment of the outstanding liabilities referred to in the preceding opinion and may issue not exceeding $6,500 of its capital stock.

4. 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.

5. Within thirty (30) days after the transfer of the rights and properties and the issue of said stock, Simmons Transfer Line, a corporation, shall file with the Commission a copy of each journal entry used to record the acquisition of the rights and properties on its books of account and a report as required by General Order No. 24-A, which order insofar as applicable, is

made a part of this order.

6. The application insofar as it involves a request to issue $4,065.86 of notes is dismissed for lack of jurisdiction.

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

Dated at San Francisco, California, this 26th day of August, 1947.

Harold P. Huls

Justus F. Craemer

Ira H. Rowell

R. E. Mitchell

Kenneth Potter

Commissioners