

ORIGINAL

Decision No. 41036

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

|  |   |             |
|--|---|-------------|
| In the Matter of the Application of          | ) |             |
| THE CALIFORNIA TRANSPORTATION COMPANY,       | : |             |
| SACRAMENTO & SAN JOAQUIN RIVER LINES, INC.,  | ) |             |
| and CALIFORNIA TRANSPORTATION COMPANY,       | : |             |
| all California corporations, for an order    | ) | Application |
| authorizing the merger of applicants, and    | : | No. 28844   |
| the issuance of shares of common stock pur-  | ) |             |
| suant to the merger, and approving the terms | : |             |
| and conditions of such issuance and exchange | ) |             |
| as provided in the plan of merger.           | : |             |
| -----  | ) |             |

McCutchen, Thomas, Matthew, Griffiths & Greene, by  
Gerald H. Trautman and E. E. Baldwin, for applicants.

O P I N I O N

In this application, the Public Utilities Commission is asked to make an order -

(1) Authorizing The California Transportation Company and Sacramento & San Joaquin River Lines, Inc. to execute an Agreement of Merger in substantially the same form as the Agreement of Merger filed in this proceeding as Exhibit "C", and,

(2) Authorizing The California Transportation Company to issue 100,000 shares of its common stock at the par value of \$5 each in exchange for presently outstanding shares of stock, and

(3) Approving the terms and conditions of such issuance and exchange of securities.

A public hearing was had in this matter before Examiner Fankhauser in San Francisco on December 9, 1947, after due notice

thereof had been given by publication and by mailing to the stockholders of record of the three corporations. No one appeared at the hearing to protest the granting of the application.

The California Transportation Company, hereinafter referred to as the New California Company, and Sacramento & San Joaquin River Lines, Inc., hereinafter referred to as the Sacramento Company, are presently engaged in the transportation of property by water in interstate and intrastate commerce on the Sacramento River, San Joaquin River and San Francisco Bay, (1) conducting their business as a unified operation under the name of "The River Lines". Their properties consist of certain lands, terminal structures, vessels, tugs and barges and other personal property.

California Transportation Company, hereinafter referred to as the Old California Company, is engaged in no business operations of any character and has no assets except 5,000 shares of common stock of the New California Company.

The New California Company has an authorized capital stock of 25,744 shares divided into 5,740 shares of first preferred 3% cumulative stock of the par value of \$50 each; 5,740 shares of second preferred 3% cumulative stock of the par value of \$50 each; 9,264 shares of third preferred 3% cumulative stock of the par value of \$1 each, and 5,000 shares of common stock of the par value of \$1 each. In the case of the third preferred

---

(1)

Operating rights defined by Decision No. 28283, dated October 14, 1935. (Vol. 39 CRC page 429)

stock, although it has a par value of \$1 per share, the redemption price is \$50 a share and the cumulative dividends are computed on the redemption price.

Under the Articles of Incorporation of the New California Company, the holders of the first preferred stock are entitled to receive dividends at the rate of 3% per annum cumulative from January 1, 1938, and payable in full before any dividends or other payments are made on other classes of stock. Upon liquidation they are entitled to receive \$50 per share plus accrued dividends before any payment on the redemption prices of the other classes of stock but only after payment of all cumulative dividends on the first, second and third preferred shares. The shareholders of the second preferred stock are entitled to receive dividends at the rate of 3% per annum cumulative from January 1, 1938, before any dividends are paid on the third preferred or the common stock. On redemption they are entitled to \$50 per share pro rata with redemption payments to the third preferred stock, after payment of all accrued dividends on the first, second and third preferred shares. The holders of the third preferred stock are entitled to receive dividends at the rate of 3% per annum on the redemption price of \$50 per share, from January 1, 1938. Upon redemption they are entitled to \$50 per share pro rata with amounts paid on the redemption price of the second preferred stock.

No dividends have been paid on any of the three classes of preferred stock. The total amounts of stock of the New California Company outstanding and the accumulated dividends thereon, are as follows:

|                     | <u>Outstanding</u> |                  | <u>Accumulated</u> |
|---------------------|--------------------|------------------|--------------------|
|                     | <u>Shares</u>      | <u>Par Value</u> | <u>Dividends</u>   |
| 1st preferred stock | 1,794              | \$ 89,700        | \$ 26,910          |
| 2nd preferred stock | 1,794              | 89,700           | 26,910             |
| 3rd preferred stock | 9,264              | 9,264            | 138,960            |
| Common stock        | <u>5,000</u>       | <u>5,000</u>     | <u>--</u>          |
| Total               | <u>17,852</u>      | <u>\$193,664</u> | <u>\$192,780</u>   |

The Sacramento Company has an authorized capital stock of 10,000 shares of the par value of \$100 each, all common, of which 1,500 shares of the par value of \$150,000 now are outstanding, 500 shares thereof being held by the New California Company.

The Old California Company has an authorized capital stock of 5,000 shares of the par value of \$100 each, all common and all outstanding.

According to the testimony herein, Norvin A. Fay owns or holds approximately 70% of the outstanding stock of the Old California Company, approximately 83% of the outstanding stock of the Sacramento Company, and approximately 98% of the outstanding preferred stock of the New California Company, the common stock of the latter being owned, as stated, by the Old California Company.

The present application shows that the three companies, in an endeavor to simplify their corporate and operating structure and to effect economies, have agreed to enter into an Agreement of Merger whereby, among other things, the New California Company will acquire and succeed to all the assets and liabilities of the Sacramento Company and the Old California Company and thereafter, as the surviving corporation, will continue the present operations. It proposes to change its name to

The River Lines, Inc. and to conduct its affairs under that name. The agreement contemplates that the surviving corporation will distribute its shares of stock (100,000 shares of the par value of \$5 each, all common) to the individual holders of the outstanding shares of stock of the constituent companies. The presently outstanding preferred and outstanding common stocks of the constituent companies will be canceled.

The combined net worth of the applicants, based on their balance sheets as of November 1, 1947, is \$626,851.56 and, in general, the new shares of stock of the surviving corporation will be distributed on the basis of the net value of the assets contributed to the merger. Such distribution, after eliminating inter-company holdings, will be as follows:

| <u>Present Shares</u>           | <u>Net Book Value Contributed</u> | <u>Percent of Total</u> | <u>New Shares to be Issued</u> |
|---------------------------------|-----------------------------------|-------------------------|--------------------------------|
| Sacramento Co. 1,000 shares     | \$190,780.48                      | 30.435                  | 30,435                         |
| New California Company          |                                   |                         |                                |
| 1st preferred 1,794 shares      | 116,610.00                        | 18.602                  | 18,602                         |
| 2nd preferred 1,794 shares      | 51,827.92                         | 8.268                   | 8,268                          |
| 3rd preferred 9,264 shares      | 262,633.16                        | 41.897                  | 41,897                         |
| Old California Co. 5,000 shares | <u>5,000.00</u>                   | <u>.798</u>             | <u>798</u>                     |
| <b>Total</b>                    | <b><u>\$626,851.56</u></b>        | <b><u>100.000</u></b>   | <b><u>100,000</u></b>          |

The net book value of \$116,610 reported contributed by all holders of the first preferred shares of stock of the New California Company represents the total of the accumulated but unpaid dividends of \$26,910 plus the redemption price of \$50 a share amounting to \$89,700. As heretofore indicated, the Articles of Incorporation of the New California Company provide that after all accrued dividends on all classes of preferred stock and after redemption of the first preferred stock, the

second and third preferred stock participate proportionately in the remaining assets.

In the proposed distribution the values assigned to these shares of stock represent the accumulated but unpaid dividends, plus their portion of the remainder of the net book value of the assets contributed, subject, however, to a distribution of \$5,000 from the pro rata portion of the third preferred shares. The \$5,000 has been assigned to the common shareholders of the stock of the Old California Company. Although such shareholders apparently have no equity in the assets, they, as holders in turn of the common stock of the New California Company, have been entitled to participate in the management of that corporation through the election of one director. It is desired by all applicants to preserve for them a continuing interest in the business.

The resulting effect of the Merger Agreement is indicated in a consolidated balance sheet as of August 31, 1947, filed in Exhibit "8" and showing the following:

| <u>Assets</u>             |                   |                     |
|---------------------------|-------------------|---------------------|
| Current assets -          |                   |                     |
| Cash                      | \$ 60,162.24      |                     |
| Accounts receivable       | <u>63,581.95</u>  |                     |
| Total current assets      |                   | \$123,744.19        |
| Miscellaneous investments |                   | 321.00              |
| Transportation property - |                   |                     |
| Floating equipment        | \$642,416.22      |                     |
| Terminal property         | 154,322.46        |                     |
| Land                      | <u>26,859.24</u>  |                     |
|                           | 823,597.92        |                     |
| Depreciation reserves     | <u>277,506.11</u> |                     |
| Balance                   |                   | 546,091.81          |
| Deferred debits           |                   | 19,723.27           |
| Organization              |                   | <u>1,500.00</u>     |
| Total                     |                   | <u>\$691,380.27</u> |

Liabilities

|                            |                  |                     |
|----------------------------|------------------|---------------------|
| Current liabilities -      |                  |                     |
| Notes and accounts payable | \$50,766.31      |                     |
| Accrued liabilities        | <u>13,762.40</u> |                     |
| Total current liabilities  |                  | \$ 64,528.71        |
| Capital stock              |                  | 500,000.00          |
| Paid-in surplus            |                  | <u>126,851.56</u>   |
|                            | Total            | <u>\$691,380.27</u> |

The combined income statement for the eight months ending August 31, 1947, giving effect to the proposed merger but not reflecting any economies in operations, is shown in Exhibit "9" as follows:

|  |                 |                     |
|--|-----------------|---------------------|
| Water-line operating revenues          |                 | \$540,452.51        |
| Water-line operating expenses          |                 | <u>497,001.29</u>   |
| Net revenue from water-line operations |                 | 43,451.22           |
| Water-line tax accruals                |                 | <u>3,250.45</u>     |
| Net revenue                            |                 | 40,200.77           |
| Other income-net                       |                 | <u>1,483.64</u>     |
| Net income                             |                 | 41,684.41           |
| Deductions:                            |                 |                     |
| Interest charges                       | \$ 287.92       |                     |
| Income taxes                           | <u>8,711.83</u> |                     |
| Total deductions                       |                 | <u>8,999.75</u>     |
| Net profit                             |                 | <u>\$ 32,684.66</u> |

Thus, following the completion of the merger the surviving corporation will have but one class of stock outstanding in place of the present several classes, the accumulated but unpaid dividends on the preferred shares of the New California Company will be eliminated, and the present joint operating agency, which is said to be very cumbersome, will be terminated. The properties and business hereafter will be owned and operated by but one entity.

The testimony shows that there will be no change in the rates and service to the public as a result of the merger.

The resulting simplification of the corporate structure and the operations of applicants, together with the economies which should result, are in the public interest and accordingly the Commission is of the opinion that the application should be granted. The terms of the exchange of the shares of stock appear to be fair and reasonable.

O R D E R

The Commission having considered the record in this application and being of the opinion that the issue and exchange of stock by The California Transportation Company on the basis set forth in the Agreement of Merger are fair and reasonable, that the money, property or labor to be procured or paid for through the issue of 100,000 shares of stock is reasonably required for the purpose herein stated, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income, and that this application should be granted, as provided herein, therefore,

IT IS HEREBY ORDERED as follows:

1. The California Transportation Company, Sacramento & San Joaquin River Lines, Inc. and California Transportation Company may execute an Agreement of Merger substantially in the same form as that filed as Exhibit "C" in this proceeding.

2. Sacramento & San Joaquin River Lines, Inc. and California Transportation Company, after the effective date hereof and on or before March 31, 1948, may transfer their

property, rights, assets and liabilities to The California Transportation Company pursuant to the terms of said Agreement of Merger, and the latter may succeed to such property, rights, assets and liabilities, all in accordance with the terms of said agreement.

3. The California Transportation Company, after the effective date hereof and on or before March 31, 1948, may issue 100,000 shares of its common stock of the par value of \$5 each, in exchange for the presently outstanding shares of stock of The California Transportation Company, Sacramento & San Joaquin River Lines, Inc. and California Transportation Company, as provided in the Agreement of Merger.

4. The authority herein granted shall not be construed as a finding of value of the properties herein authorized to be transferred.

5. Within ninety (90) days after the execution of said Agreement of Merger, The California Transportation Company shall file with the Commission a copy of the same, a report showing the number of shares of stock issued under the authority herein granted, the names of those to whom said shares were issued, and a copy of each journal entry used to record on its books the acquisition of the properties under the authority herein granted.

6. The authority herein granted will become effective ten (10) days from the date hereof.

Dated at San Francisco, California, this 17<sup>th</sup> day  
of December, 1947.

Harold P. Hule  
Justice F. Casner  
W. H. Powell  
R. F. [unclear]  
Commissioners