

ORIGINAL

Decision No. 49113

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 KINGS COUNTY TRUCK LINES, a corporation,)
 and MOSER'S FROZEN FOOD FREIGHT LINE,)
 a corporation, for authority to merge)
 the operations and the issuance of a)
 new certificate of public convenience)
 and necessity to Kings County Truck)
 Lines, a corporation, to operate as a)
 highway common carrier, for the trans-)
 portation of property.)

Application No. 34820

O P I N I O N

In this proceeding the Commission is asked to enter an order authorizing Kings County Truck Lines and Moser's Frozen Food Freight Line to merge their properties and business. Kings County Truck Lines has been designated as the surviving corporation.

Kings County Truck Lines and Moser's Frozen Food Freight Line are highway common carriers of property, the former operating under a certificate of public convenience and necessity granted by Decision No. 45829, dated June 12, 1951, in Application No. 31437, and the latter under a certificate granted by Decision No. 46407, dated November 13, 1951, in Application No. 30571. The corporations are affiliated. Each has the same officers. The outstanding stock of Kings County Truck Lines (1,500 shares without par value) is reported held by Manuel S. Mancobo, its president, and Joe N. Coelho, Jr., its secretary and treasurer. The outstanding stock of Moser's Frozen Food Freight Line (\$53,000 par value) is owned by Kings County Truck Lines.

In exhibits attached to the application Kings County Truck Lines reports net income for the eight months ended August 31, 1953, in the amount of \$83,956.66, before provision for income taxes, and

an accumulated surplus, as of the same date, of \$265,922.48. Moser's Frozen Food Freight Line for the same period during 1953 reports a deficit of \$36,548.48 and an accumulated deficit of \$83,652.68. The assets, liabilities and net worth of the two corporations as of August 31, 1953, are summarized as follows:

	<u>Moser's Frozen Food Freight Line</u>	<u>Kings County Truck Lines</u>
<u>Assets</u>		
Current assets	\$ 40,073.22	\$219,367.28
Tangible assets-net of depreciation	168,769.98	590,576.51
Intangible assets	21,125.00	4,540.57
Other debits	3,965.01	73,972.98
Totals	<u>\$233,933.21</u>	<u>\$888,457.34</u>
<u>Liabilities and Net Worth</u>		
Current liabilities	\$111,665.25	\$189,652.49
Advances from affiliated company	42,000.00	-
Equipment obligations	109,298.67	354,610.37
Other credits	1,621.97	3,272.00
Common stock	53,000.00	75,000.00
Surplus	<u>(83,652.68)</u>	<u>265,922.48</u>
Totals	<u>\$233,933.21</u>	<u>\$888,457.34</u>

(Red Figure)

The application shows that the directors and shareholders of the two corporations have concluded to merge the properties and operations and that to accomplish this end they propose to enter into arrangements whereby the separate existence of Moser's Frozen Food Freight Line will cease and Kings County Truck Lines, as the surviving corporation, will succeed to and become the owner of all the operative rights and assets of the other, will take over its book accounts, and will assume all its outstanding obligations. It appears that the arrangements provide for the issue by Kings County Truck Lines of shares of stock at \$50 a share, in the aggregate amount of \$53,000, in exchange for the outstanding \$53,000 par value of stock of Moser's Frozen Food Freight Line.

At the conclusion of the transaction the outstanding shares of stock of the surviving corporation will stand on its balance sheet at \$128,000.

According to the application the merger will result in no change in the rates, schedules, physical operations or services of the two corporations, nor increase the operating authority, nor in any manner affect any existing common carrier other than applicants. It is requested that the Commission revoke the existing operative rights and grant to Kings County Truck Lines a new certificate in lieu of the authorization now held by the two applicants.

In support of the application it is asserted that the merger will provide a more integrated operation and will result in economies in accounting, in dispatching of equipment, in loading and pickup services and in other operations, and will reduce the present operating losses arising from the operations of Moser's Frozen Food Freight Line.

Upon a review of this matter we are of the opinion that the merger will not be adverse to the public interest, that the money, property or labor to be procured or paid for by the issue of the shares of stock by Kings County Truck Lines is reasonably required by said Kings County Truck Lines for the purpose specified herein, that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income, and that an order should be entered granting the certificate requested.

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be merged. Applicants are 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 as to the number of rights which may be given.

O R D E R

The Commission having considered this matter and being of the opinion that a public hearing is not necessary and that the application should be granted as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

(1) Kings County Truck Lines and Moser's Frozen Food Freight Line are authorized to merge their properties under an arrangement whereby Moser's Frozen Food Freight Line is merged into Kings County Truck Lines.

(2) Kings County Truck Lines is authorized to assume the outstanding liabilities of Moser's Frozen Food Freight Line and to issue 1,060 shares of its capital stock, at \$50 a share, in exchange for the shares of stock of Moser's Frozen Food Line now outstanding.

(3) The operative rights granted by Decision No. 45829, dated June 12, 1951, and Decision No. 46407, dated November 13, 1951, as modified by Decision No. 46566, dated December 18, 1951, are hereby revoked and annulled.

(4) A certificate of public convenience and necessity is hereby granted to Kings County Truck Lines authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 213 of the Public Utilities Code, as follows:

(a) Commodities which require refrigeration all or part of the year, as well as empty containers returning, shipments of paraffin and the following commodities when offered

along with commodities requiring refrigeration all or part of the year: (1) those commodities described in Item 360-C Series, Item 610-H Series, and Item 730-D Series of Highway Carriers' Tariff No. 2, (2) adhesive paste, (3) animal food, (4) bouillon cubes, (5) bread-making compound, (6) casein, (7) cheese canned, (8) cheese and macaroni in packages, (9) eggs powdered, (10) fertilizer commercial, (11) glue, (12) packaging supplies, and (13) malt syrup or powder:

- i. Between San Francisco territory, Los Angeles territory, Sacramento and all intermediate points on the routes set forth in paragraph iii north of Chowchilla, including points within 25 miles laterally from U. S. Highway No. 99, from Manteca to Chowchilla, including Manteca but excluding Chowchilla (hereinafter called northern intermediate points);
- ii. Between San Francisco territory, Sacramento and the northern intermediate points, on the one hand, and points on U. S. Highway No. 99 from Chowchilla to Los Angeles territory, including Chowchilla and points within 25 miles laterally of U. S. Highway No. 99 from Chowchilla to Delano, both inclusive, on the other hand;
- iii. Service under paragraphs i and ii hereof shall be rendered along the following routes, namely:
 - U. S. Highway No. 99 from Los Angeles territory to Sacramento;
 - U. S. Highway No. 101 and 101 Bypass from Gilroy to San Francisco territory;
 - U. S. Highway No. 40 between San Francisco territory and Sacramento;
 - U. S. Highway No. 50, San Francisco territory to Stockton;
 - State Highway No. 24, San Francisco territory to Sacramento;
 - State Highways Nos. 33 and 132 between U. S. Highway No. 50 (near Tracy) and U. S. Highway No. 99 (Modesto);
 - State Highway No. 120 between U. S. Highway No. 50 and U. S. Highway No. 99 (Manteca);
 - State Highway No. 152 between Gilroy and junction U. S. Highway No. 99 (near Califa);
- iv. From Los Angeles Basin territory, on the one hand, to points north of Chowchilla to and including Sacramento on U. S. Highway No. 99, and to the

San Francisco territory, on the other hand, via the routes described in paragraph iii hereof;

- v. Between Sacramento, on the one hand, and Woodland, Yuba City, Marysville, Grass Valley, Nevada City, Auburn and intermediate points, on the other hand, via U. S. Highway No. 40, State Highway No. 24, State Highway No. 20, State Highway No. 49, and U. S. Highways Nos. 99E and 99W.
- (b) Applicant's service under paragraph (a) subparagraphs i through v hereof shall be provided subject to the following restrictions:
- i. The line-haul portion of the service shall be rendered by means of refrigerated or insulated equipment;
 - ii. No service shall be performed on fresh dairy products between Los Banos, Patterson and intermediate points on State Highway No. 33, on the one hand, and San Francisco and the East Bay points from Richmond on the north to Hayward on the south, including Richmond and Hayward, on the other hand;
 - iii. No local service shall be performed between Woodland, Yuba City, Marysville, Grass Valley, Nevada City, Auburn or the intermediate points referred to in paragraph (a) v hereof.
- (c) General commodities, except petroleum products in bulk in tank vehicles, uncrated household goods, explosives and livestock, from Los Angeles territory to points between Chowchilla and Bakersfield, both inclusive, via U. S. Highway No. 99, including off-route points within 25 miles laterally of U. S. Highway No. 99 between Chowchilla and Bakersfield, hereinafter called the Chowchilla-Bakersfield area.
- (d) Commodities requiring refrigeration all or part of the year, dairy products (including canned and powdered milk) and fresh fruits and vegetables:
- i. From the Chowchilla-Bakersfield area, on the one hand, to the Los Angeles Basin territory, on the other hand, with empty containers returning via U. S. Highway No. 99; and
 - ii. Between Chowchilla and Bakersfield and intermediate points via U. S. Highway No. 99, with the right to make lateral departures of 25 miles therefrom.
- (e) The pickup and delivery areas in the San Francisco, Los Angeles, and Los Angeles Basin territories are those as described in Item 270 Series of Highway Carriers' Tariff No. 2.

(5) In providing service pursuant to the certificate herein granted, applicant shall comply with the following service regulations:

- (a) Within thirty days after the effective date of this order, applicant shall file a written acceptance of the certificate herein granted.
- (b) Within sixty days after the effective date hereof, and upon not less than five days' notice to the Commission and the public, applicant shall establish the service herein authorized.

(6) Within sixty days after the effective date of this order, upon not less than five days' notice to the Commission and the public, and concurrently with the establishment of service by Kings County Truck Lines in place of that provided by Moser's Frozen Food Freight Line under the authority of this order, applicants shall supplement or reissue the tariffs now on file with the Commission covering the operations here involved to show that Moser's Frozen Food Freight Line has withdrawn or canceled its rates, rules, and regulations and that Kings County Truck Lines has adopted or established as its own said rates, rules, and regulations.

(7) Kings County Truck Lines shall file a report of the issue of its shares of stock under the authorization herein granted as required by the Commission's General Order No. 24-A, which order, in so far as applicable, is made a part of this order.

The effective date of this order shall be twenty days after the date hereof, except that the revocation of operative

rights provided for in paragraph (3) hereof shall be effective concurrently with establishment of the service herein authorized.

Dated at San Francisco, California, this 8th day of December, 1953.

R. J. [Signature]
President

Justin D. [Signature]

[Signature]

[Signature]

[Signature]
Commissioners