

ORIGINAL

Decision No. 49733

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)

W. R. SWOAPE,)

an individual, for authority to trans-)
fer and assign to RUSH SWOAPE TRUCKING)
CO., INC. his highway common carrier)
certificate, his revenue equipment, and)
for the right to receive therefor stock)
in the amount of \$30,335.68; and)

Application
No. 35139

In the Matter of the Application of)

RUSH SWOAPE TRUCKING CO., INC. for the)
issuance of common shares of stock at)
a par value of \$30,335.68, in accordance)
with Public Utilities Code, Sections 816,)
817, and 851.)
-----)

O P I N I O N

W. R. Swoape, doing business as Rush Swoape Trucking, is a highway common carrier of property over various routes in California. In this application he reports he desires to incorporate his business and he seeks the authorization of the Commission for the transfer of his operative rights and properties to a new corporation which he has caused to be organized to take over and to continue his operations.

The new corporation, which is named Rush Swoape Trucking Co., Inc., seeks authorization to issue 3,033.568 shares of its common stock, of the aggregate par value of \$30,335.68, in part payment for the operative rights and properties.

The properties to be transferred include the operative rights represented by a certificate of public convenience and

necessity acquired by applicant Swoape under authorization granted by the Commission by Decision No. 44873, dated October 3, 1950, and 28 units of equipment. Applicants report that the original costs of the equipment less the depreciation reserve amount to \$76,213.52 and that there are outstanding secured obligations against such equipment of \$45,877.84, leaving net book values of \$30,335.68 which is the amount of the proposed stock issue.

Upon reviewing this matter we are of the opinion that the proposed transfer will not be adverse to the public interest and that the money, property or labor to be procured or paid for by the issue of the shares of stock herein authorized is reasonably required by applicant corporation for the purpose specified herein, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

In making our order at this time 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 as 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 rights and properties herein authorized to be transferred.

O R D E R

The Commission having considered the above entitled 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. W. R. Swoape may transfer to Rush Swoape Trucking Co., Inc. the operative rights represented by the certificate of public convenience and necessity acquired by him pursuant to Decision No. 44873, dated October 3, 1950, and the tangible properties referred to in this application.

2. Rush Swoape Trucking Co., Inc., in payment for such rights and properties, may assume the payment of outstanding indebtedness, as set forth in this proceeding, and may issue not exceeding 3,033.568 shares of its common stock at par.

3. Within 60 days after the effective date hereof and on not less than five days' notice to the Commission and to the public, applicants shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved so as to show that W. R. Swoape, doing business as Rush Swoape Trucking, has withdrawn or canceled and that Rush Swoape Trucking Co., Inc. has adopted or established as its own said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the filing and construction of tariffs set forth in the Commission's General Order No. 80.

4. Rush Swoape Trucking Co., Inc. shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

5. The authority herein granted will become effective 20 days after the date hereof.

Dated at San Francisco, California, this 2nd day of March, 1954.

A. J. [Signature]
President

Justus J. [Signature]

[Signature]

[Signature]
Commissioners