

**ORIGINAL**

Decision No. 51631

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
TRANSPORTATION SERVICE COMPANY, a )  
corporation, to sell and transfer, )  
and MISSION FREIGHT LINES, INC., a )  
corporation, to purchase and acquire )  
certain highway common carrier )  
operative rights and operating )  
equipment, and to assume certain )  
obligations of TRANSPORTATION )  
SERVICE COMPANY. )  
-----)

Application  
No. 36966

In the Matter of the Application of )  
MISSION FREIGHT LINES, INC., a )  
corporation, to issue stock. )  
-----)

Application  
No. 36967

Marquam C. George, for applicants.  
COUNSEL

O P I N I O N

In these applications, filed on May 17, 1955, the Commission is asked to enter its orders authorizing Transportation Service Company, a corporation, to sell and transfer highway common carrier operative rights and equipment to Mission Freight Lines, Inc. and authorizing Mission Freight Lines, Inc. to issue 100 shares of its no par value common stock, for cash, for the sum of \$10 a share.

A public hearing was held in these matters before Examiner Coleman in San Francisco on June 9, 1955, at which time they were taken under submission. The Commission has received no protests in the proceedings.

For many years Transportation Service Company has been engaged in business as a highway contract carrier and a radial highway common carrier and in other activities. On January 25, 1955, by

Decision No. 51002, it became certificated as a highway common carrier of general commodities, except uncrated used household goods, livestock, and liquid in bulk, between San Pablo and Gilroy, Los Gatos, and all points intermediate thereto and between said intermediate points, and between San Francisco and Gilroy, Los Gatos, and all points intermediate thereto and between said intermediate points, serving all points within five miles on either side of the highways traversed. For the first two months of its certificated operations, that is, for February and March of this year, it reported monthly operating revenues of approximately \$15,000 and net profit for the period of \$4,495, before making provision for depreciation.

It now appears that those in control of the affairs of Transportation Service Company desire to separate the highway common carrier operations from the other activities and that they have made arrangements for the transfer to Mission Freight Lines, Inc., a new corporation, of the certificate of public convenience and necessity and operating equipment consisting of 10 trucks and 13 trailers. It is contemplated that Fred L. Todd, who is the president, general manager and majority stockholder of Transportation Service Company, will sever all connections with that company, will dispose of all, or substantially all, of his shares of stock, and will become the general manager and sole stockholder of the new corporation. He will purchase \$1,000 of stock to provide the corporation with working capital.

It is reported that the equipment to be transferred originally was acquired by Transportation Service Company for the sum of \$85,374 and that the present market value is \$66,200. In acquiring the properties of Transportation Service Company, Mission Freight Lines, Inc. has agreed to assume the payment of equipment obligations of \$29,147, which are payable in monthly installments of \$1,368.

including principal and interest, and to issue to Transportation Service Company a one-year note for \$8,515, payable without interest.

The record shows that Fred L. Todd for many years has been engaged in the highway carrier business, that he will take with him into the new corporation the present operating personnel and equipment, that terminal facilities at San Jose will be available to the new carrier, and that there will be no change in the rates or service offered to the public. According to the record, additional money is available to Mission Freight Lines, Inc. for working capital and for the repayment of the one-year note through a line of bank credit and through subsequent subscriptions of additional shares of stock by Mr. Todd. Under the circumstances as outlined at the hearing, we are of the opinion, and so find, that the proposed transfer will not be adverse to the public interest.

Applicants are hereby placed on 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

A public hearing having been held on the above entitled matters and the Commission having considered the evidence and being of the opinion that the applications should be granted, as herein provided, that the money, property or labor to be procured or paid for by the issue of the shares of stock and the assumption of outstanding indebtedness herein authorized is reasonably required by Mission Freight Lines, Inc. for the purposes specified herein, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. Transportation Service Company, a corporation, may transfer its certificate of public convenience and necessity and operating equipment, as set forth in these proceedings, to Mission Freight Lines, Inc., such transfer to be made on or before September 30, 1955.
2. Mission Freight Lines, Inc., upon acquiring said certificate and equipment, may assume the payment of outstanding indebtedness in the total amount of not exceeding \$29,147 and may issue and sell 100 shares of stock, for cash, at \$10 a share, to provide working capital.
3. 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 to show that Transportation Service Company, a corporation has withdrawn or canceled and that Mission Freight Lines, 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 construction and filing of tariffs set forth in the Commission's General Order No. 80.

4. Mission Freight Lines, Inc. shall file with the Commission monthly reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order. It shall also file a copy of each journal entry used to record on its books the acquisition of the rights and equipment of Transportation Service Company, such filing to be made within thirty days after such acquisition.

5. The authority herein granted will become effective on the date hereof.

Dated at San Francisco, California, this 5<sup>th</sup> day of July, 1955.

Justus J. Casanova  
President  
Rosa Gutierrez  
Manuel Lopez  
F. J. Kelly  
Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.