

Decision No. 52150

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application	)	
of C. H. ATTHOWE and J. M. ATTHOWE,	:	
copartners doing business as EAST BAY	)	Application
DRAYAGE AND WAREHOUSE CO., to	:	No. 37373
transfer certificates of public convenience	)	
and necessity and property to EAST BAY	:	
DRAYAGE & WAREHOUSE CO., a cor-	)	
poration, and to issue stock and assume	:	
certain obligations.	)	
-----	:	

O P I N I O N

In this proceeding the Commission is asked to make an order authorizing C. H. Atthowe and J. M. Atthowe to transfer the East Bay Drayage and Warehouse Co. to East Bay Drayage & Warehouse Co., a corporation, and authorizing said corporation to issue \$47,720 par value of its capital stock.

The application shows that C. H. Atthowe and J. M. Atthowe, copartners doing business as East Bay Drayage and Warehouse Co., for many years have been engaged in the transportation of general commodities, with certain exceptions, between points and places in the San Francisco-East Bay Cartage Zone. They hold prescriptive rights and also a certificate of public convenience and necessity granted by Decision No. 51202, dated March 15, 1955, in Application No. 36664. The partners are parties to certain through routes and joint rates with Veryl Callison, doing business as Callison Truck Lines, authorized by Decision No. 41367, dated March 23, 1948, in Application No. 27991.

It appears that the operations of the partners have been profitable. A statement of their reported operating revenues and net

income for the last three calendar years, and the first six months of 1955, is as follows:

	<u>Operating Revenues</u>	<u>Net Income</u>
1952	\$156,382	\$ 9,467
1953	184,275	16,701
1954	196,173	21,835
1955 (6 months)	102,447	13,807

The financial position of the partnership as reflected by its balance sheet of June 30, 1955, is as follows:

Assets

Current assets -		
Cash and deposits	\$15,965	
Accounts receivable	19,883	
Prepaid expenses	<u>6,361</u>	
Total current assets		\$42,209
Tangible property -		
Carrier operating property	\$91,871	
Less: reserve for depreciation	<u>75,497</u>	
Net carrier operating property		<u>16,374</u>
Total		<u>\$58,583</u>

Liabilities and Partnership Net Worth

Current liabilities -		
Accounts payable	\$ 4,313	
Taxes accrued	2,602	
Wages and insurance payable	<u>1,584</u>	
Total current liabilities		\$ 8,499
Equipment obligations		2,355
Partnership net worth -		
Capital, J. M. Atthowe	\$24,713	
Capital, C. H. Atthowe	<u>23,016</u>	
Total partnership net worth		<u>47,729</u>
Total		<u>\$58,583</u>

It is reported that C. H. Atthowe and J. M. Atthowe now desire to conduct their operations by means of a corporate form of organization; that they have organized East Bay Drayage & Warehouse Co., a corporation, and that they propose to transfer their operative rights and equipment to it in consideration of the assumption by the corporation of the outstanding liabilities and the issue of shares of stock of the aggregate par value of \$47,720. It appears that the corporation will

continue the operations without interruption of service and with the same equipment and under the same rates.

Under the circumstances set forth in this proceeding we are of the opinion, and so find, that the proposed transfer will not be adverse to the public interest. Applicants are 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

The Commission having considered the above-entitled matter and being of the opinion that a public hearing is not necessary, that the application should be granted, as herein provided, that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required by applicant corporation for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. C. H. Atthowe and J. M. Atthowe, copartners doing business as East Bay Drayage and Warehouse Co., may transfer to

East Bay Drayage & Warehouse Co., a corporation, on or before March 31, 1956, their operative rights and equipment, as set forth in this application.

2. East Bay Drayage & Warehouse Co., a corporation, in payment for said operative rights and equipment, may assume the payment of outstanding indebtedness of C. H. Atthowe and J. M. Atthowe, as set forth in this proceeding, and may issue not exceeding \$47,720 par value of its capital stock.


3. East Bay Drayage & Warehouse Co., a corporation, may be substituted for C. H. Atthowe and J. M. Atthowe as a party to the through routes and joint rates with Veryl Callison, authorized by Decision No. 41367, dated March 23, 1948, in Application No. 27991.

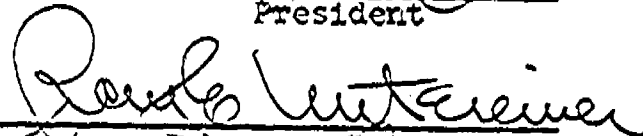
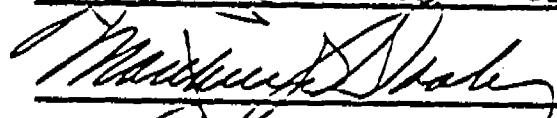
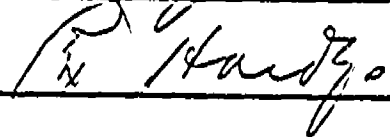
4. On not less than five days' notice to the Commission and to the public, applicants shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that C. H. Atthowe and J. M. Atthowe have withdrawn or canceled and that East Bay Drayage & Warehouse Co., a corporation, 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.

5. East Bay Drayage & Warehouse Co., a corporation, 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.

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

Dated at San Francisco, California, this 1<sup>st</sup> day of November, 1955.

  
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President

  
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Commissioners