

ORIGINAL

Decision No. 54876

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
JOSEPH J. MILNE TRUCK LINES, INC.,
a Utah Corporation, to acquire the
capital stock of ROCKY MOUNTAIN
SERVICE, INC., a Utah Corporation,
and
In the Matter of the Application of
JOSEPH J. MILNE TRUCK LINES, INC.
to dissolve the ROCKY MOUNTAIN
SERVICE, INC.

Application No. 38901

O P I N I O N

Rocky Mountain Service, Inc., and Joseph J. Milne Truck Lines, Inc., applicants herein, have filed this application for approval of an agreement of merger.

Applicants are Utah corporations engaged in the transportation of property by motor vehicles. Generally speaking, Rocky Mountain Service, Inc., is engaged in the transportation of general commodities between points in California by virtue of a certificate of public convenience and necessity which it acquired pursuant to Decision No. 53464, dated July 20, 1956, and between points in California and points in Arizona and Nevada. Joseph J. Milne Truck Lines, Inc., operates between points in Utah and points in Nevada. In 1956 Rocky Mountain Service, Inc., reported that it utilized 52 units of equipment and had operating revenues of \$1,050,714 and net income of \$54,210. Joseph J. Milne Truck Lines, Inc., reported that it utilized 93 units of equipment and had operating revenues of \$810,994 and net income of \$19,697.

The application shows that the Interstate Commerce Commission, by its order of January 7, 1957, authorized Joseph J. Milne Truck Lines, Inc., to acquire control of Rocky Mountain Service, Inc., through the purchase of capital stock, and to merge the Rocky Mountain Service, Inc., operative rights and properties into its own by virtue of a merger agreement which provides that the separate corporate existence of Rocky Mountain Service, Inc., will terminate and its assets, subject to the liabilities, will be acquired by Joseph J. Milne Truck Lines, Inc., as the surviving corporation.

Because the assets of Rocky Mountain Service, Inc., include its certificate of public convenience and necessity which was granted by the California Commission and equipment used in the operations conducted under such certificate, applicants have filed the present application for the appropriate authorization from this Commission.

Upon conclusion of the transaction, Joseph J. Milne Truck Lines, Inc., will carry on the same operations which are now performed by Rocky Mountain Service, Inc., under the same rates, rules and regulations and with no change or interruption of service to the public. Upon the representations made in the application, we are of the opinion and so find that the proposed merger 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

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Rocky Mountain Service, Inc., has withdrawn or canceled and Joseph J. Milne Truck Lines, Inc., has adopted or established as the consideration for the grant of such rights. Aside from their purely permissive aspect, they shall 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.

San Francisco, California, this 22nd day of APRIL, 1957.

ORDER

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; therefore,

IT IS HEREBY ORDERED as follows:

1. The acquisition by Joseph J. Milne Truck Lines, Inc., of control of Rocky Mountain Service, Inc., through purchase of its capital stock, and the merger of the operative rights and properties of Rocky Mountain Service, Inc., into Joseph J. Milne Truck Lines, Inc., are hereby approved and authorized.
2. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, 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