

**ORIGINAL**

Decision No. 55056

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) S & M FREIGHT LINES, a corporation to purchase, and of R. J. STADLER, an individual doing business as S & M TRANSFER & STORAGE CO., to sell, a certificate of public convenience and necessity for transportation of general commodities between various points in southern California, pursuant to Sections 851-853 of the California Public Utilities Code.

(b) S & M FREIGHT LINES, a corporation, to issue shares of its common capital stock pursuant to Sections 816-830 of the California Public Utilities Code.

Application No. 39061

O P I N I O N

This is an application for an order of the Commission (1) authorizing R. J. Stadler, doing business as S & M Transfer & Storage Co., to transfer operative rights, business and assets to S & M Freight Lines, a corporation, and (2) authorizing said corporation to issue 5,465 shares of its common stock of the par value of \$10 each.

R. J. Stadler operates as a highway common carrier under a certificate of public convenience and necessity granted by the Commission by Decision No. 53995, dated October 30, 1956, as amended by Decision No. 54466, dated January 29, 1957, and Decision No. 54589, dated February 25, 1957, all in Application No. 36357. The application shows that the certificate authorizes

the transportation of general commodities, with some exceptions, between various points and places in Los Angeles, Orange, Riverside, and San Bernardino Counties. In granting such certificate the Commission cancelled the operative right created by Decision No. 7493, dated April 26, 1920, in Application No. 5508. In addition, R. J. Stadler reports that he is engaged in interstate commerce as a highway common carrier in the transportation of general and special commodities between certain points in Los Angeles County, and also is engaged in intrastate commerce pursuant to city carrier, radial highway common carrier, and highway contract carrier permits issued by this Commission.

A statement of R. J. Stadler's assets, liabilities and capital at March 31, 1957, prepared from Exhibit B attached to the application, is as follows:

<u>Assets</u>		
Current assets	\$ 47,553	
Less - current liabilities	<u>20,666</u>	
Net working assets		\$ 26,887
Land		22,500
Operative equipment - less reserve		<u>111,249</u>
Total		<u>\$160,636</u>
<u>Liabilities and Capital</u>		
Equipment contracts		\$102,831
Notes payable		3,150
Net worth		<u>54,655</u>
Total		<u>\$160,636</u>

It now appears that R. J. Stadler has concluded his operations can be conducted more advantageously by means of a corporate form of organization and that he proposes to transfer his operative rights, business and assets to S & M Freight Lines, a new corporation which he has formed for the express purpose of taking over such rights, business and assets and of conducting the operations. The application shows that nothing is included in the asset values for the cost of any interstate or intrastate certificates or permits. The corporation, in acquiring the operative rights, business and assets, will assume the outstanding liabilities and will issue its stock at par in an amount equivalent to the net book value of the assets being transferred.

It appears that there will be no change in the rates or service as the result of the transfer and that the same operative properties will be available to the corporation as now are utilized by applicant R. J. Stadler. Upon reviewing the verified application, we are of the opinion, and so find that the transfer will not be adverse to the public interest and should be authorized.

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

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. R. J. Stadler may transfer to S & M Freight Lines, a corporation, the operative rights granted by the Commission by Decision No. 53995, dated October 30, 1956, as amended by Decision No. 54466, dated January 29, 1957, and Decision No. 54589, dated February 25, 1957, and his business and assets, such transfer to be made on or before September 30, 1957.
2. S & M Freight Lines, a corporation, in payment for such rights, business and assets, may issue not exceeding 5,465 shares of its common stock of the aggregate par value of \$54,650 and assume the payment of outstanding indebtedness.
3. 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 operations here involved to show that R. J. Stadler has withdrawn or canceled and S & M Freight Lines, 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. 20.

4. S & M Freight Lines, 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.

5. This order will become effective on the date hereof.

Dated at San Francisco, California, this 4<sup>th</sup>  
day of June, 1957.

[Signature]  
President  
[Signature]  
[Signature]  
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Commissioners