

ORIGINAL

Decision No. 56740

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CONSOLIDATED FREIGHTWAYS, INC., to acquire the highway common carrier operating rights of INLAND TRANSPORTATION CORPORATION.

} Application No. 40043

O P I N I O N

Inland Transportation Corporation and Consolidated Freightways, Inc., applicants herein, are highway common carriers engaged in interstate and intrastate commerce.^{1/} In this application they request the Commission to enter its order authorizing Inland Transportation Corporation to transfer its intrastate operative rights to Consolidated Freightways, Inc.

Applicants have filed, or will file, with the Interstate Commerce Commission an application for an order authorizing Consolidated Freightways, Inc., to obtain control of Inland Transportation Corporation through the acquisition of all the outstanding stock of that corporation under a stock exchange agreement and an application for permission to merge Inland Transportation Corporation with Consolidated Freightways, Inc. It is intended

^{1/} Inland Transportation Corporation operates as a highway common carrier of general commodities in southern California under a certificate of public convenience and necessity granted by Decision No. 51777, dated August 2, 1955, in Application No. 35914. Consolidated Freightways, Inc., operates generally in Oregon, Washington, California, Nevada, Idaho, Utah, Montana, North Dakota, Minnesota, Wisconsin, Illinois, Michigan and Arizona. It conducts local operations in California as a highway common carrier of general commodities between Los Angeles and San Francisco territories and as a petroleum irregular route carrier and highway common carrier of petroleum products throughout the state.

that the acquisition by Consolidated Freightways, Inc., of the outstanding stock of Inland Transportation Corporation will be accomplished under and pursuant to the terms of an agreement whereby the holders of the shares of stock of Inland Transportation Corporation will accept, in exchange for their holdings, shares of stock of Consolidated Freightways, Inc., in an amount which, when valued at the average mean between the bid and asked price as quoted in the San Francisco edition of the Wall Street Journal for a period of two weeks prior to the date of final consummation, most nearly equals the sum of \$99,207.

Inland Transportation Corporation has been operating at a loss. Upon obtaining control, Consolidated Freightways, Inc., intends to operate Inland Transportation Corporation temporarily as a wholly own subsidiary in order to take advantage of Inland Transportation Corporation's tax loss carry-forward, which is reported at \$46,348 and which will, so it is estimated, permit savings of approximately \$24,000 in income taxes. Consolidated Freightways, Inc., reports that Inland Transportation Corporation, if so authorized, will be merged into its own corporate structure when the available tax loss has been used. At this time, as one step leading to the ultimate disposition of the proceedings and the completion of the program, the two carriers seek this Commission's approval so far as the intrastate rights are concerned.

Financial statements filed with the Commission show the revenues and expenses of the two companies for the 11 months ended November 30, 1957, as follows:

	<u>Consolidated Freightways, Inc.</u>	<u>Inland Transportation Corporation</u>
Operating revenues	\$51,422,064	\$ 555,467
Net profit after depreciation	1,637,659	(20,144)
Depreciation included in operating expense	3,265,436	28,789

The financial condition of Consolidated Freightways, Inc., as of November 30, 1957, is indicated in the following condensed balance sheet:

<u>Assets</u>		
Current assets -		
Cash and deposits	\$ 3,250,078	
Accounts receivable	4,931,295	
Prepayments	1,643,086	
Materials and supplies	836,035	
Total current assets	<u>10,660,494</u>	\$10,660,494
Tangible property, less reserves		17,204,006
Intangible property		386,190
Other investments		5,593,598
Deferred debits		<u>325,633</u>
Total		<u>\$34,169,921</u>
 <u>Liabilities and Capital</u>		
Current liabilities		\$ 6,531,686
Other liabilities		13,877,718
Deferred credits		408,742
Capital stock and surplus		<u>13,351,775</u>
Total		<u>\$34,169,921</u>

The operations of Inland Transportation Corporation are being conducted in an area which is enjoying a rapid industrial and population growth. Consolidated Freightways, Inc., estimates that the revenues from the operations will increase at the rate of about 15% a year and it is of the opinion that it can manage the affairs more economically than has been possible in the past and that it should realize a 94% operating ratio which would be equivalent to a profit, before taxes, of approximately \$33,000 on a \$550,000 gross revenue. It is reported that operative authority of Inland Transportation Corporation does not duplicate any authority held by Consolidated Freightways, Inc., and that the transactions, therefore, will not reduce competition between any points or over any routes. The organization of Inland Transportation Corporation will be retained intact.

Upon a review of this application, we are of the opinion, and so find, that the proposed transaction will not be adverse to the public interest and that Consolidated Freightways, Inc., financially is in a position to assume the common carriage operations of Inland Transportation Corporation. We will enter our order authorizing the transfer of the intrastate operative rights.

In making our order, we hereby place applicants 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 operative rights, properties and equipment of Inland Transportation Corporation.

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, therefore,

IT IS HEREBY ORDERED as follows:

1. Inland Transportation Corporation, on and after the effective date hereof and on or before June 30, 1959, may transfer to Consolidated Freightways, Inc., its California highway common carrier operative rights.

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 Inland Transportation Corporation has withdrawn or

canceled and Consolidated Freightways, 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.

3. The authority herein granted to transfer operative rights will become effective when the Interstate Commerce Commission has authorized Inland Transportation Corporation to merge into Consolidated Freightways, Inc.

Dated at San Francisco, California, this 27th day of May, 1958.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners