

ORIGINAL

Decision No. 58545

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of CONSOLIDATED FREIGHTWAYS,
INC. To Transfer and CONSOLIDATED FREIGHT
LINES, INC. To Acquire the Operating
Authorities of CONSOLIDATED FREIGHTWAYS,
INC.

Application No. 41163

O P I N I O N

This is an application for an order of the Commission authorizing Consolidated Freightways, Inc., to transfer its California intrastate operative rights and all the capital stock of its wholly-owned subsidiary, Consolidated Warehouse Company of California, to a new corporation named Consolidated Freight Lines, Inc.

The proposed transfers are part of a plan of reorganization of the affairs of Consolidated Freightways, Inc. In the decision on Application No. 41139, which is entered concurrently herewith, reference is made to the general terms and objectives of the plan and authorization is given with respect to certain financial aspects of it. In this decision, we will consider the transfer of the intrastate operations.

Consolidated Freightways, Inc., is a Washington corporation which is engaged in interstate and foreign commerce and also in California intrastate commerce as a highway common carrier and petroleum irregular route carrier under certificates of public

convenience and necessity granted by the Commission, and as a household goods carrier, a city carrier, a radial highway common carrier, and a highway contract carrier under permits granted by the Commission.^{1/} In addition, it owns all the outstanding capital stock of Consolidated Warehouse Company of California, a public utility warehouseman operating in San Francisco.

The highway operations of Consolidated Freightways, Inc., cover a substantial part of the state and include the transportation of general commodities and petroleum and other products in bulk. The certificated operations are conducted under and pursuant to operative rights acquired pursuant to Decisions Nos. 45783, 51515, 52469, 54449 and 56063. In addition, Consolidated Freightways, Inc., is a party to certain through routes and joint rates with other carriers, as set forth in California Common Carriers Tariff No. 1, Cal. P.U.C. No. 1, published by the Interstate Freight Carriers Conference, Inc.

The plan of reorganization, pursuant to which the proposed transfers will be made, is designed to separate the carrier operations of Consolidated Freightways, Inc., from the non-carrier operations on a corporate basis. It appears that there will be no change in the management nor in the carrier and warehouse operations and service and, therefore, we are of the opinion, and so find, that the transfer of the operative rights and the stock of the warehouse company to Consolidated Freight

^{1/} Authority to transfer the permits is sought in separate proceedings.

Lines, Inc., will not be adverse to the public interest. We will enter our order granting the application.

In making this order we 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 and stock herein authorized to be transferred.

O R D E R

The Commission has considered the above-entitled matter and is of the opinion a public hearing is not necessary and that the application should be granted, therefore,

IT IS HEREBY ORDERED as follows:

1. Consolidated Freightways, Inc., on and after the date hereof and on or before December 31, 1959, may transfer to Consolidated Freight Lines, Inc., all its California highway common carrier and petroleum irregular route carrier operative

rights, under and pursuant to the terms of the plan of reorganization, and Consolidated Freight Lines, Inc., may acquire such rights and may be substituted for Consolidated Freightways, Inc., as a party to through routes and joint rates with other carriers.

2. Consolidated Freightways, Inc., may transfer and assign all the presently outstanding capital stock of Consolidated Warehouse Company of California to Consolidated Freight Lines, Inc., and Consolidated Freight Lines, Inc., may acquire and hold said stock.

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 so as to show that Consolidated Freightways, Inc., has withdrawn or canceled and Consolidated 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. This order shall become effective on the date hereof.

Dated at San Francisco, California,
this 9th day of June, 1959.

E. J. Fox
President

Walter K. ...

Theodore ...

Commissioners