

Decision No. _____

50732**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 MOJAVE TRANSPORTATION CO., a corpora-
 tion, to acquire the certificate of
 public convenience and necessity from
 MOJAVE CORPORATION for the trans-
 portation of oil field equipment and
 equipment.

Application No. 42415

O P I N I O N

In this application the Commission is asked to make an order (1) authorizing Mojave Corporation to sell its operative right to Mojave Transportation Co. and (2) authorizing Mojave Transportation Co. to issue 100 shares of no par capital stock.

The application shows that Mojave Corporation, under authorization granted by Decision No. 54536, dated February 19, 1957, in Application No. 38716, acquired a certificate of public convenience and necessity permitting operations as a highway common carrier of oil field, pipe line and refinery equipment, machinery and parts between all points in California.

Mojave Transportation Co.'s pro forma balance sheet attached to the application shows the following:

<u>Assets</u>	
<u>Current Assets</u>	
Cash in bank	\$ 1,500.00
<u>Tangible Property</u>	
Revenue equipment	14,500.00
<u>Intangible Property</u>	
Franchises	<u>7,500.00</u>
Total Assets	<u>\$ 23,500.00</u>
<u>Liabilities</u>	
<u>Capital Stock</u>	<u>\$ 23,500.00</u>
Total Liabilities & Capital	<u>\$ 23,500.00</u>

From the foregoing statement it appears that Mojave Transportation Co. proposes to issue stock equivalent in value to the net book value of the assets. However, there is included among the assets the sum of \$7,500 for franchises.¹

Under the law, the Commission is empowered to authorize the capitalization of operative rights only up to the amount (exclusive of any tax or annual charge) actually paid to the state or a political subdivision thereof as the consideration for the grant of such right. (Article 5, Section 820 of the Public Utilities Code.) The amount originally paid to the state or political subdivision thereof is not of record in this proceeding and therefore it appears that we have no basis upon which we can predicate an order for the issue of stock in the amount requested in payment for the operative right.

Elimination of the intangible item from the net book value as reported would leave a balance of \$16,000 which, in our opinion, represents the maximum amount of stock we can authorize upon the basis of the information now before us. The order herein will so provide.

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 modified or canceled at any time by the state, which is not in any respect limited as to the number of rights which may be given.

¹ The operative right formerly was owned by Rush Swoape Trucking, Inc., and sold by it to Mojave Corporation in 1957 for the sum of \$7,500.

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.

The Commission has considered the above-entitled matter and is of the opinion and so finds that the proposed transfer, as herein provided, will not be adverse to the public interest, that the money, property or labor to be procured or paid for by the issue of the common 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,

O R D E R

IT IS HEREBY ORDERED as follows:

1. On or before November 1, 1960, Mojave Corporation may transfer to Mojave Transportation Co. the highway common carrier operative right referred to in the application.
2. Mojave Transportation Co., in acquiring said operative right and assets, may issue not exceeding 68 shares of its no par value common stock at and for a total consideration of \$16,000.
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 common carrier operations here involved to show that Mojave Corporation has withdrawn or canceled and Mojave Transportation 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.

4. Mojave Transportation 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.

5. The request to issue \$7,500 of stock is denied.

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

Dated at San Francisco, California, this 13th day of September, 1960.

Carroll W. Pease

President

John S. Mitchell

C. J. ...

Commissioners