

ORIGINAL

Decision No. 62711

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of VERNON WOODS, doing business as WOODS TRUCK LINE, for authority to transfer and assign a certificate of public convenience and necessity to operate as a highway common carrier of property, and other property necessary and useful in the performance of his duties to the public to HOWARD TERMINAL, a corporation.

Application No. 43792

O P I N I O N

This application was filed on September 28, 1961, for an order authorizing Vernon Woods to transfer highway common carrier operative rights and equipment to Howard Terminal, a corporation.

The application shows that Vernon Woods, doing business as Woods Truck Line, is a highway common carrier of general commodities between the Grass Valley-Nevada City area and the Sacramento area under a certificate of public convenience and necessity granted by Decision No. 47146, dated May 13, 1952; that said Woods desires to dispose of such operations; and that he has made arrangements to sell his operative rights, good will, and two units of equipment to Howard Terminal, a corporation.

Howard Terminal conducts highway common carrier operations between the San Francisco Bay area and Sacramento, Auburn and other points, and also owns warehouse facilities in Sacramento. It asserts it now turns over considerable freight from the San Francisco Bay area to the Grass Valley-Nevada City area and that it desires to acquire the Woods operation as an extension of its existing lines.

The agreement of sale specifies a total purchase price of \$12,000 of which \$3,000 is allocated to operative rights, \$3,000 to good will and \$6,000 to tangible assets, and provides for cash payments aggregating \$9,000 on or before consummation of the transaction and for payment of the remaining \$3,000 in monthly installments of \$300 or more.

Howard Terminal reports that it will place modern equipment on the lines now operated by Woods and that it will integrate the Woods operations with its presently owned operations. It asserts, further, that the existing service will be improved and that it will be of advantage to shippers to have the Sacramento warehouse facilities correlated with the carrier service.

The statements filed with the application show that Howard Terminal has substantially larger operations and greater financial resources than has applicant Woods. As of January 31, 1961, it reported current assets of \$507,958 as compared with

current liabilities of \$254,262 and a capital structure including \$214,900 of long-term obligations, \$250,000 of capital stock and \$505,140 of retained earnings. The Woods operations in 1960 produced revenues of \$46,580 and net revenues, before depreciation charges, of \$5,213 and Howard Terminal asserts that it can effect economies in operating costs by acquiring the Woods operations.

Under the circumstances set forth in this particular proceeding, we find and conclude that -

1. Howard Terminal has made an adequate showing of its financial ability to acquire and maintain the operations of applicant Woods,
2. The proposed transfer will not be adverse to the public interest,
3. The Commission has no power to authorize the capitalization of the operative rights in the amount set forth as the consideration for the transfer of such rights, and
4. Any portion of the acquisition costs not includable in accounts provided to reflect the tangible assets and the actual costs of obtaining from public authority the operative rights included in the transaction should be charged against the proprietary capital of the purchaser.

Upon the basis of these findings, we will enter our order. In doing so, we place applicants upon 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.

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,

IT IS ORDERED that -

1. Vernon Woods, on or after the effective date hereof and on or before December 31, 1961, may transfer his highway common carrier operative rights, which were acquired under authorization granted by Decision No. 47146, dated May 13, 1952, and the other assets, as set forth in this proceeding, to Howard Terminal.

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 Vernon Woods, doing business as Woods Truck Line, has withdrawn or canceled and Howard Terminal, 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.

3. If Howard Terminal acquires said rights and assets, it shall charge to surplus any portion of the purchase price not properly includable in the accounts provided in the uniform system of accounts to reflect the tangible assets and the actual costs of obtaining the operative rights from a public authority.

4. Within 60 days after consummation of the transfer herein authorized, Howard Terminal shall file with the Commission a copy of each journal entry used to record on its books the acquisition of the rights and assets.

5. The authority herein granted shall become effective on the date hereof.

Dated at Los Angeles, California,
this 34th day of OCTOBER, 1961.

Ed Mitchell President
E. J. Fox
George J. Brown
Fredrick B. Hallock Commissioners

Commissioner Everett C. McKeage, being necessarily absent, did not participate in the disposition of this proceeding.