

Decision No. 41856

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 H. M. JUDSON, an individual doing)
 business as "Marin & Sonoma Furniture)
 Delivery", Seller, and REDWOOD HIGHWAY)
 FURNITURE DELIVERY, INC., a corporation,)
 Buyer, for an order of the Commission)
 authorizing (a) the sale and transfer of)
 the operative properties and rights here-)
 in described and (b) the latter to issue)
 shares of its capital stock in payment)
 thereof.)
 -----)

Application
No. 29346

O P I N I O N

This is an application for an order of the Public Utilities Commission authorizing H. M. Judson to sell and transfer highway common carrier rights and properties to Redwood Highway Furniture Delivery, Inc., a corporation, and authorizing said corporation to issue shares of its capital stock as hereinafter set forth.

The application shows that H. M. Judson is the owner of four trucks and other equipment and a certificate of public convenience and necessity granted by the Commission by Decision No. 40336, dated May 27, 1947, authorizing the operation as a highway common carrier service for the transportation of the following new articles: furniture, store fixtures, office fixtures, grandfather clocks, fireplace equipment, gas, oil, and wood heaters, sewing machines, bassinets, hampers, baby buggies, play pens, ice, electric, and gas refrigerators, kitchen utility cabinets, vacuum cleaners, radios, phonographs, radio-phonograph combinations,

musical instruments, stoves, ranges, baby carriages, deep freezers, washing machines, mangles, ironers, garden and porch furniture, from San Francisco and Oakland, on the one hand, to Healdsburg and points between San Francisco and Healdsburg including Sausalito, Mill Valley, Corte Madera, Belvedere, Larkspur, Kentfield, Ross, San Anselmo, San Rafael, Hamilton Field, Fairfax, Novato, Petaluma, and Santa Rosa, on the other hand, with a return movement of rejected shipments.

In her 1947 annual report H. M. Judson reports her revenues at \$9,907.89, her operating expenses, exclusive of federal taxes, at \$8,574.39, and her net income at \$1,333.50.

It appears that H. M. Judson now desires to incorporate her business and to that end has caused the organization of Redwood Highway Furniture Delivery, Inc. to take over the properties and to continue the business. It is proposed to transfer the operative rights and properties, free and clear of indebtedness, to the corporation in exchange for \$25,000 of stock, or such part thereof as the Commission may authorize.

In our opinion there is nothing in the application to warrant an order authorizing the issue of \$25,000 of stock. A review of H. M. Judson's reports and records indicates that her net investment in physical properties and current assets, including the fee paid to the Commission in obtaining the certificate of public convenience and necessity, is approximately \$3,800. Applicant H. M. Judson has advised the Commission that it will be satisfactory to her, for the purpose of this transfer, if the order of the Commission limits the issue to stock having a par value of \$3,500.

Redwood Highway Furniture Delivery, Inc. is hereby placed 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 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 properties herein authorized to be transferred.

ORDER

The Public Utilities 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 only as herein provided, that the money, property or labor to be procured or paid for through the issue of \$3,500 of stock is reasonably required by Redwood Highway Furniture Delivery, Inc. for the purpose specified herein and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income,

IT IS HEREBY ORDERED as follows:

1. H. M. Judson, after the effective date hereof and

on or before September 30, 1948, may sell and transfer to Redwood Highway Furniture Delivery, Inc. the certificate of public convenience and necessity and the properties referred to in this proceeding.

2. Redwood Highway Furniture Delivery, Inc., after the effective date hereof and on or before September 30, 1948, may issue not exceeding \$3,500 par value of its common capital stock in payment for said certificate and properties.

3. Applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A, by filing, in triplicate, and concurrently making effective, appropriate tariffs and time tables within sixty (60) days from the effective date hereof and on not less than one (1) day's notice to the Commission and to the public.

4. Redwood Highway Furniture Delivery, Inc. shall file with the Commission a report of the issue of the stock as required by the Commission's General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

5. The authority herein granted will become effective twenty (20) days from the date hereof.

6. This application, insofar as it involves the issue of \$21,500 of stock, is denied without prejudice.

Dated at San Francisco, California, this 20th day of July, 1948.

J. J. [Signature]
Justice [Signature]
Harold P. [Signature]

Commissioners