

ORIGINAL

Decision No. 49181

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
F. O. CULY, H. F. CULY, D. O. CULY,	:	
D. P. CULY, G. R. CULY and FRANK)	
CULY, JR., co-partners doing business	:	
as CULY TRANSPORTATION COMPANY,)	
to transfer certificates of public con-	:	Application
venience and necessity, permits, and)	No. 34747
property, to CULY TRANSPORTATION	:	
CO., INC., a corporation, and to)	
issue stock and to assume certain	:	
obligations.)	
-----	:	

O P I N I O N

This is an application for an order of the Commission authorizing F. O. Culy, et al., partners doing business as Culy Transportation Company, to transfer operative rights and properties to Culy Transportation Co., Inc., a corporation, and authorizing said corporation to assume the payment of outstanding indebtedness and to issue \$40,000 par value of its common capital stock.

The application shows that F. O. Culy, H. F. Culy, D. O. Culy, D. P. Culy, G. R. Culy and Frank Culy, Jr. are engaged in business in California as highway common carriers, radial highway common carriers, highway contract carriers and city carriers under certificates and permits obtained by them under authorization granted by this Commission. In their two latest annual reports filed with this Commission they have reported their operating revenues in the amount of \$763,804 in 1951 and at \$881,799 in 1952. In Exhibit C filed in this proceeding they have reported their assets, liabilities and net worth as of June 30, 1953, as follows:

Assets

Current assets -		
Cash and deposits	\$18,407	
Notes and accounts receivable	29,981	
Prepayments	11,863	
Materials and supplies	<u>14,548</u>	
Total current assets		\$ 74,799
Tangible property, less depreciation		271,635
Intangible property		12,307
Other investments		<u>2,870</u>
	Total	<u>\$361,611</u>

Liabilities and Net Worth

Current liabilities	\$140,873
Advances payable	6,898
Equipment obligations	118,790
Other long-term obligations	31,510
Deferred credits	<u>240</u>
Total liabilities	298,311
Net worth	<u>63,300</u>
	Total
	<u>\$361,611</u>

The operative rights, which are represented by certificates of public convenience and necessity, are set forth in the application as follows:

1. Decision No. 44531, dated July 11, 1950, in Application No. 28750, permitting the transportation of general commodities, with certain exceptions, between the San Francisco and the San Diego territories.
2. Decision No. 46430, dated November 20, 1951, in Application No. 31936, permitting the transportation of groceries and grocers' supplies generally between San Francisco and Tulare, inclusive, on the one hand, and the San Diego territory, on the other hand, with certain lateral service.
3. Decision No. 48835, dated July 14, 1953, and Decision No. 49033, dated September 1, 1953, in Application No. 33878, permitting the transportation of fresh fruits, vegetables and perishable farm products between all points and places on U. S. Highway 395 between Miramar and Temecula and other points as set forth in said decisions, on the one hand, and the San Diego, Los Angeles and San Francisco territories served by applicant, on the other hand.

In addition, the partnership is a party to certain through routes and joint rates with a number of other carriers as set forth in Interstate Freight Carriers Conference, Agent, California Common

Carrier Motor Freight Tariff No. 1, California Public Utilities Commission No. 1.

The tangible properties include 76 units of equipment, together with real property, improvements, shop, garage and office equipment.

The application shows that the members of the partnership now have concluded it will be to their advantage to conduct the business by means of a corporate organization and that therefore they have caused the incorporation of Culy Transportation Co., Inc. to take over the rights and properties and to continue the operations.^{1/} The new corporation was organized on or about August 26, 1953, with an authorized capital stock of 50,000 shares of the par value of \$1 each.

In receiving the rights and properties, as requested in this application, the new corporation will assume the payment of outstanding indebtedness and will issue \$40,000 par value of its capital stock against the reported net worth of \$63,300, as set forth in the preceding balance sheet, the difference between the two figures to be set up on the corporation's books as contributed surplus.

From a review of this matter it appears that there will be no change in the rates or service. Accordingly, we are of the opinion that the proposed transfer will not be adverse to the public interest and we will enter an order granting applicants' requests. In making this order we wish to 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

^{1/} The application involves the transfer of the highway common carrier rights. A separate application will be filed for approval of the radial, contract and city permits.

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 rights and properties herein authorized to be transferred.

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, that the application should be granted, as herein provided, that the money, property or labor to be procured or paid for by the issue of the shares of 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,

IT IS HEREBY ORDERED as follows:

1. F. O. Culy, H. F. Culy, D. O. Culy, D. P. Culy, G. R. Culy and Frank Culy, Jr., partners doing business as Culy Transportation Company, may transfer their operative rights, which are represented by the certificates of public convenience and necessity referred to in the preceding opinion, and their operative properties to Culy Transportation Co., Inc.
2. Culy Transportation Co., Inc., in acquiring such operative rights and properties, may assume the payment of

outstanding indebtedness of the partnership and may issue not exceeding \$40,000 par value of its common capital stock.

3. Culy Transportation Co., Inc. may be substituted for the partnership as a party to the through routes and joint rates now authorized for the partnership.

4. Within 60 days after the effective date hereof and on not less than five days' notice to the Commission and to the public, Culy Transportation Co., Inc. shall file, in triplicate, and concurrently make effective, appropriate tariffs and time tables.

5. Culy Transportation Co., Inc. shall file with the Commission monthly reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

6. The authority herein granted will become effective 20 days after the date hereof.

Dated at San Francisco, California, this 6th day of October, 1953.

A. P. Anderson
President

Justin J. Calmes

Samuel P. Potter

John E. [unclear]

Commissioners