

Decision No. 52740

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of JOHN W. DOUDELL, an individual, to transfer certificates of public convenience and necessity, permits, and property, to DOUDELL TRUCKING COMPANY, a corporation, to issue stock and assume certain obligations and to publish less than minimum rates as authorized in Decision No. 51892.

Application
No. 37613
(and Amendment)

O P I N I O N

In this proceeding the Commission is asked to make an order authorizing John W. Doudell to transfer certain operative rights and equipment to Doudell Trucking Company, a corporation, and authorizing said corporation to assume the payment of indebtedness, to issue \$117,000 par value of its capital stock, and to be substituted for said John W. Doudell in the authority to publish and file certain less than established minimum rates.

John W. Doudell performs a statewide service as a petroleum highway common carrier and a petroleum irregular route carrier under certificates of public convenience and necessity granted by this Commission by Decision No. 43505, dated November 7, 1949, in Application No. 30412, and Decision No. 44378, dated June 20, 1950, in Application No. 31036. By Decision No. 51892, dated August 30, 1955, in Application No. 32585, the Commission authorized John W. Doudell to publish and file rates which are lower than the established minimum rates for the transportation of crude oil and distillate fuel oil between certain specified points.

As of December 31, 1955, applicant Doudell reports his investment in properties at \$248,643 and in current assets at \$75,841, a total of \$324,484 which he has financed with current liabilities of \$165,205, other obligations of \$42,090, and proprietary capital of \$117,189. The carrier reports, for the 12 months ended December 31, 1955, freight revenues of \$964,723 and net income, before depreciation charges and income taxes, of \$78,585. The charges for depreciation were recorded at \$67,471.

The application shows that John W. Doudell now desires to conduct his operations by means of a corporate form of organization, that he has organized Doudell Trucking Company, a corporation, and that he proposes to transfer his operative rights and equipment to it in consideration of the assumption by the corporation of outstanding liabilities and the issue of shares of stock of the aggregate par value of \$117,000 against the proprietary investment at December 31, 1955. It appears that the corporation will continue the operations without interruption of service and with the same equipment and under the same rates.

Under the circumstances set forth in this proceeding we are of the opinion, and so find, that the proposed transfer will not be adverse to the public interest. Applicants are 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 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.

Q 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 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. John W. Doudell may transfer to Doudell Trucking Company, a corporation, on or before June 30, 1956, his operative rights and equipment, as set forth in this application.

2. Doudell Trucking Company, a corporation, in payment for said operative rights and equipment, may assume the payment of outstanding indebtedness of John W. Doudell, as set forth in this

proceeding, and may issue not exceeding \$117,000 par value of its capital stock.

3. Doudell Trucking Company, a corporation, may be substituted for John W. Doudell in the authority to publish and file the rates set forth in Decision No. 51892, dated August 30, 1955, in Application No. 32585.

4. 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 to show that John W. Doudell has withdrawn or cancelled and that Doudell Trucking Company, 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.

5. Doudell Trucking Company, 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.

6. The authority herein granted will become effective upon the date hereof.

Dated at San Francisco, California, this 15th day of March, 1956.

[Signature]
President

[Signature]

[Signature]

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Commissioners