

**ORIGINAL**

Decision No. 54941

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) QWIKWAY TRUCKING CO., for authority to issue shares of its common capital stock pursuant to Section 816-830 of the California Public Utilities Code.

(b) MANUEL J. NIEVEZ, JR., an individual, doing business as QUICK TRUCKING & DELIVERY SERVICE to sell and QWIKWAY TRUCKING CO., a corporation, to purchase a highway common carrier certificate for the transportation of general commodities, with some exceptions, generally between all points in the Los Angeles Basin Territory pursuant to Section 851-853 of the California Public Utilities Code.

Application No. 38973

O P I N I O N

This is an application for an order of the Commission

- (1) authorizing Manuel J. Nieves, Jr., doing business as Quick Trucking & Delivery Service, to transfer operative rights, business and assets to Qwikway Trucking Co., a corporation, and
- (2) authorizing said corporation to issue 3,126 shares of its common stock of the par value of \$10 each.

The application shows that Manuel J. Nieves, Jr. owns a certificate of public convenience and necessity granted by the Commission by Decision No. 54110, dated November 19, 1956, in Application No. 35920, authorizing transportation as a highway common carrier of property generally between all points in the Los Angeles Basin Territory. Previously, applicant

Nieves had been engaged in operating as a permit carrier and in Exhibit B he has reported, for 1956, freight revenues of \$217,926 and net profit of \$1,801, after making provision in the amount of \$15,089 for depreciation.

A statement of applicant Nieves' assets, liabilities and capital as of December 31, 1956, prepared from Exhibit B attached to the application, is as follows:

Assets

Current assets	\$32,178	
Less-current liabilities	<u>26,046</u>	
Net working assets		\$ 6,132
Operative equipment-less reserve		29,785
Other assets		<u>5,585</u>
Total		<u>\$41,502</u>

Liabilities and Capital

Contracts payable	\$10,238
Net worth	<u>31,264</u>
Total	<u>\$41,502</u>

It now appears that Manuel J. Nieves, Jr. has concluded his operations can be conducted more advantageously by means of a corporate form of organization and that he proposes to transfer his operative rights, business and assets to Qwikway Tracking Co., a new corporation which he has formed for the express purpose of taking over such rights, business and assets and of conducting the operations. The corporation, in acquiring the operative rights, business and assets, will assume the outstanding liabilities and will issue its stock at par in an amount equivalent to the net book value of the assets being transferred. A detailed

statement of the balance sheet figures indicates that \$50 is included in the asset values for the certificate granted by the Commission.

It appears that there will be no change in the rates or service as the result of the transfer and that the same operative properties will be available to the corporation as now are utilized by applicant Nieves. Upon reviewing the verified application, we are of the opinion, and so find that the transfer under the terms as proposed, and subject to the conditions of the order herein, will not be adverse to the public interest and should be authorized.

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 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 stock herein authorized is reasonably required by applicant corporation for the purpose specified herein, as 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. Manuel J. Nieves, Jr. may transfer to Qwikway Trucking Co., a corporation, the operative rights granted by the Commission by Decision No. 54110, dated November 19, 1956, and his business and assets, such transfer to be made on or before September 30, 1957.

2. Qwikway Trucking Co., a corporation, in payment for such rights, business and assets, may issue not exceeding 3,126 shares of its capital stock of the aggregate par value of \$31,260 and assume the payment of outstanding indebtedness.

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 operations here involved to show that Manuel J. Nieves, Jr. has withdrawn or canceled and Qwikway

Trucking 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. Qwikway Trucking 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. This order will become effective on the date hereof.

Dated at San Francisco, California, this 7th day of MAY, 1957.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
[Signature]  
Commissioners