

ORIGINAL

Decision No. 58742

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
RELIABLE DELIVERY SERVICE, INC.
a California corporation,

for authority to sell and issue its
capital stock; and

In the Matter of the Application of

BABE TALSKY, an individual, dba
RELIABLE DELIVERY SERVICE,

to transfer Certificate of Public
Convenience and Necessity to
RELIABLE DELIVERY SERVICE, INC.,
a California corporation.

Application No. 39770

O P I N I O N

This is an application for an order of the Commission (1) authorizing Babe Talsky, an individual doing business as Reliable Delivery Service, to transfer operative rights and equipment to Reliable Delivery Service, Inc., and (2) authorizing Reliable Delivery Service, Inc., to issue 590 shares of its no par capital stock at \$100 a share.

Under authorization granted by Decision No. 53751, dated September 11, 1956, in Application No. 35712, applicant Talsky entered upon operations as a highway common carrier of specified commodities between various points in southern California, and by Decision No. 56982, dated July 15, 1958, he established certain through routes and joint rates.

According to his 1958 annual report, his gross revenues for the year aggregated \$1,074,800 and his net income, after payment of operating expenses, depreciation and interest, amounted to \$7,295.

It appears that applicant Talsky now desires to conduct his business by means of a corporate form of organization and that he has made arrangements to transfer his operative rights and equipment to Reliable Delivery Service, Inc., a new corporation which he has formed for the express purpose of taking over such rights and equipment and of continuing the operations. The new corporation will acquire these properties at their book values, will assume the payment of long-term indebtedness and will issue 590 of its shares of stock in evidence of net book values. A summary statement showing the assets and liabilities to be thus acquired is as follows:

Tangible assets, net after depreciation	\$117,929	
Less - long-term debt	<u>79,863</u>	
Net tangible assets		\$38,066
Current assets	71,330	
Less - current liabilities	<u>54,479</u>	
Net current assets		16,851
Intangible assets and deferred charges, net		<u>4,083</u>
Total		<u><u>\$59,000</u></u>

Investigation by the Commission's staff shows that the certificate of public convenience and necessity granted by the Commission is included in the assets at the sum of \$603.95.

On June 4, 1958, the Commission issued an order instituting investigation on its own motion into the operations and practices of Babe Talsky, doing business as Reliable Delivery Service for the purpose, among others, of determining whether he

has operated or is operating as a highway common carrier without having obtained a certificate of public convenience and necessity and whether or not he should be ordered to cease and desist from operating as a highway common carrier and his operating authority canceled, revoked or suspended. Hearings have been held on the investigation but the Commission has not yet issued its decision in the matter.

As to the application now before us, it appears that the proposed transfer from Babe Talsky to the corporation will result in no change in the management or in the rates or service and that the same equipment will be available to the corporation as is now utilized by the individual. Under the circumstances we are of the opinion, and so find, that the transfer will not be adverse to the public interest and should be authorized, provided, however, that the transferee corporation shall agree that the operative rights to be transferred shall be subject to the decision to be issued in Case No. 6122.

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 operative rights and equipment 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, 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. Babe Talsky, on and after the effective date hereof and on or before December 31, 1959, may transfer to Reliable Delivery Service, Inc., the operative rights acquired by him by virtue of Decision No. 53751, dated September 11, 1956, and his operative equipment as set forth in this application.

2. Reliable Delivery Service, Inc., may be substituted for Babe Talsky as a party to the through routes and joint rates authorized by Decision No. 56982, dated July 15, 1958.

3. Reliable Delivery Service, Inc., in acquiring said operative rights and equipment, may assume the payment of outstanding indebtedness as set forth in this application and may issue not exceeding 590 shares of its no par capital stock.

4. 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 Babe Talsky, doing business as Reliable Delivery Service, has withdrawn or canceled and Reliable Delivery Service, Inc., 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. Reliable Delivery Service, Inc., 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 when Reliable Delivery Service, Inc., has filed with the Commission a stipulation in which it agrees that the operative

rights to be acquired by it under such authority shall be subject to the terms and conditions of the decision to be issued in Case No. 6122.

Dated at San Francisco, California, this 14th day of July, 1959.

Carroll R. Long
President
W. E. Mitchell
William J. Gable
W. J. Fox
Theodore J. Jenner
Commissioners