

ORIGINAL

Decision No. 59718

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of DEALERS TRANSIT, INC. a corporation, for authority to sell and transfer to U. S. DELIVERY, INC., a corporation, a certificate of public convenience and necessity, and for U. S. Delivery, Inc. to issue stock.

Application No. 41903

O P I N I O N

This is an application filed on February 1, 1960, for an order of the Commission (1) authorizing Dealers Transit, Inc., a Delaware corporation, to sell and transfer its highway common carrier certificate of public convenience and necessity to U. S. Delivery, Inc., a California corporation, and (2) authorizing U. S. Delivery, Inc., to assume payment of liabilities, and to issue 40 shares of its no par value stock to Dealers Transit, Inc., in cancellation of a \$10,000 indebtedness.

The certificate of public convenience and necessity proposed to be transferred for \$100 was created by Decision No. 45990, dated July 24, 1951, in Application No. 29828, and was transferred to Dealers Transit, Inc., pursuant to authority granted by Decision No. 52096, dated October 18, 1955, in Application No. 37216, as modified by an order extending time dated December 12, 1955. Such certificate authorizes the transportation of designated motor vehicles and related

commodities throughout the State of California over prescribed routes. In addition to operating under such certificate and permits issued by this Commission, Dealers Transit, Inc., engages extensively in the transportation of property in interstate and foreign commerce pursuant to certificates of public convenience and necessity issued by the Interstate Commerce Commission.

U. S. Delivery, Inc., was recently organized under the laws of the State of California for the primary purpose of performing the major part of the California operations of Dealers Transit, Inc. Its balance sheet at January 4, 1960, giving effect to the proposed issue of 40 shares of capital stock, is shown in Exhibit C attached to the application, as follows:

<u>Assets</u>	
Cash	\$10,000.00
Equipment	<u>23,259.80</u>
Total	<u>\$33,259.80</u>
<u>Liabilities and Capital</u>	
Notes payable (C & J Commercial Driveway, Inc.)	\$ 1,100.00
Accounts payable (Dealers Transit, Inc., and Trailmobile, Inc.)	22,159.80
Capital stock (for which authority to issue is being sought)	<u>10,000.00</u>
Total	<u>\$33,259.80</u>

After consideration the Commission is of the opinion, and so finds, that the proposed transfer will not be adverse to the public interest, that there will be no change in the rates to be charged to the public as a result of the transfer, that the money, property or labor to be procured or paid for by the issue

of the stock herein authorized is reasonably required for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

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 certificate of public convenience and necessity 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 and that the application should be granted, as herein provided, therefore,

IT IS HEREBY ORDERED as follows:

1. Dealers Transit, Inc., may sell and transfer to U. S. Delivery, Inc., which latter corporation may purchase and acquire, the certificate of public convenience and necessity acquired by the former corporation pursuant to authority granted by Decision No. 52096, dated October 18, 1955, in Application No. 37216, as modified by an order extending time dated December 12, 1955.

2. U. S. Delivery, Inc., may assume the payment of outstanding liabilities, and may issue not to exceed 40 shares of its no par value stock to Dealers Transit, Inc., in cancellation of a \$10,000 indebtedness, all as set forth in this application.

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 Dealers Transit, Inc., has withdrawn or canceled and U. S. Delivery, Inc., 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. U. S. Delivery, Inc., 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 shall become effective on the date hereof.

Dated at San Francisco, California, this 29th day of FEBRUARY, 1960.

[Signature] President
[Signature]
[Signature]
Theodore Jenner Commissioners