

ORIGINAL

Decision No. 59831

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
THOMAS C. SCHNECK and LEROY L.  
MORPHIS, co-partners doing business  
as GARDNER'S DELIVERY SERVICE, to  
transfer, and GARDNER'S DELIVERY  
SERVICE, INC., a corporation, to  
acquire operating rights and  
properties of a highway common  
carrier, and to issue stock.

Application No. 42001

O P I N I O N

This is an application for an order of the Commission  
(1) authorizing Thomas C. Schneck and Leroy L. Morphis, co-partners  
doing business as Gardner's Delivery Service, to transfer operative  
rights, business and assets to Gardner's Delivery Service, Inc.,  
a California corporation, and (2) authorizing said corporation  
to assume indebtedness and to issue \$27,960 par value of its  
common stock.

Under authority granted by Decision No. 55989, dated  
December 16, 1957, in Application No. 36468, Thomas C. Schneck  
undertook operations as a highway common carrier of various  
commodities associated with the motion picture, theatrical and  
television industries in Los Angeles County. He also obtained  
permits to operate as a city carrier, a radial highway common  
carrier and a highway contract carrier, and, in partnership  
with Leroy L. Morphis, acquired operating equipment and assets  
to carry on the business. A condensed statement of the assets,

liabilities and net worth of the operations, as of December 31, 1959, prepared from Exhibit A attached to the application, is as follows:

<u>Assets</u>		
Current assets -		
Cash	\$ 2,297.94	
Accounts receivable	10,429.82	
Inventory	<u>2,350.81</u>	
Total current assets		\$15,078.57
Tangible assets, less reserves		<u>16,479.01</u>
Total		<u>\$31,557.58</u>
 <u>Liabilities and Net Worth</u>		
Current liabilities		\$ 3,586.03
Net worth		<u>27,971.55</u>
Total		<u>\$31,557.58</u>

For the year 1959, revenues were reported at \$86,611.24 and net income at \$9,328.48.

It now appears that Thomas C. Schneck and Leroy L. Morphis have concluded operations can be conducted more advantageously by means of a corporate form of organization and that they propose to transfer the operative rights, business and assets to Gardner's Delivery Service, Inc., a new corporation which they have formed for the express purpose of taking over such rights, business and assets and of continuing the operations. The corporation, in acquiring said operative rights, business and assets, will assume the outstanding liabilities and will issue shares of its stock having an aggregate par value approximately equal to the reported net worth.

The application shows that there will be no change in the rates or service as the result of the transfer, that the same operative properties will be available to the corporation as now are utilized in the operations, and that nothing is claimed for value of the operative rights. Upon reviewing the application, we are of the opinion, and so find, that the transfer 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, 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. Thomas C. Schneck and Leroy L. Morphis may transfer to Gardner's Delivery Service, Inc., a corporation, the operative rights created by this Commission's Decision No. 55989, dated December 16, 1957, in Application No. 36468, and the business, equipment and assets, as set forth in this application.
2. Gardner's Delivery Service, Inc., a corporation, in payment for such rights, business, equipment and assets, may issue not to exceed \$27,960 par value of its common stock, and may 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 Thomas L. Schneck and Leroy L. Morphis have withdrawn or canceled and Gardner's 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.

4. Gardner's 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.

5. This order shall become effective on the date hereof.

Dated at San Francisco, California,  
this 29<sup>th</sup> day of March, 1960.

Cecil W. Boy  
President  
W. L. [unclear]  
W. L. [unclear]  
E. L. [unclear]  
Theodore [unclear]  
Commissioners