

ORIGINAL

Decision No. 60275

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) KLING CARTAGE CO., a corporation, to purchase, and of ARROWHEAD "U" DRIVE CORPORATION, a corporation doing business as SPEEDY DELIVERY, to sell a certificate of public convenience and necessity for the transportation of special commodities between various points in Riverside and San Bernardino Counties, pursuant to Section 851-853 of the California Public Utilities Code.

(b) KLING CARTAGE CO., a corporation, to issue shares of its common capital stock, pursuant to Section 816-830 of the California Public Utilities Code.

Application No. 42258

O P I N I O N

This application was filed on May 17, 1960, for an order (a) authorizing Arrowhead "U" Drive Corporation, a corporation doing business as Speedy Delivery, to transfer its operative rights to Kling Cartage Co., a corporation, and (b) authorizing Kling Cartage Co. to issue 805 shares of its common stock of the par value of \$10 each and of the aggregate par value of \$8,050.

From a review of the verified application and financial statements, it appears -

1. That Arrowhead "U" Drive Corporation is the owner of a certificate of public convenience and necessity, granted by Decision No. 53638, dated August 28, 1956, in Application No. 36373, permitting operations between San Bernardino and Colton, Fontana, Riverside and other points;

2. That Arrowhead "U" Drive Corporation is engaged primarily in nonutility operations, namely, the renting of automotive equipment, and that it has not developed any substantial volume of highway common carrier business, its financial reports showing freight revenues of only \$2,680 in 1959 and revenues from nonutility operations of \$922,878;
3. That Arrowhead "U" Drive Corporation desires to divest itself of its highway common carrier operations and that it has made arrangements to sell its certificate of public convenience and necessity to Harry R. Kling for the sum of \$900, no tangible assets being included in the transfer;
4. That Harry R. Kling is experienced in the transportation business, that he now owns radial highway common carrier and highway contract carrier permits, and that he has been reasonably successful in his carrier operations, his financial statements showing revenues of \$139,613 in 1959 and net profit of \$9,244;
5. That Harry R. Kling intends, upon acquiring the highway common carrier operations, to conduct his business under a corporate form of organization and that he has made arrangements to assign to Kling Cartage Co., a new corporation which he has organized, the agreement to acquire the certificate of public convenience and necessity and to transfer to such new corporation his motor vehicle equipment, consisting of 18 units and his other operative property, tools, permits and goodwill, subject to liabilities, in exchange for shares of stock;
6. That the total amount of stock to be issued, \$8,050, is equivalent to the recorded net book values of the tangible equipment and current assets to be transferred to the corporation and that the equipment obligations to be assumed aggregated \$4,754 as of the end of 1959;
7. That the \$900 purchase price for the certificate of public convenience and necessity will be paid by Harry R. Kling personally and will not be assumed by the new corporation and will not be capitalized through the issue of stock, and that the new corporation will adopt the rates presently in effect.

Upon considering this matter, we find and conclude that the new corporation will enter upon its operations with a reasonable financial structure and will have sufficient resources to continue the highway common carrier operations and that the proposed transfer of the certificate of public convenience and necessity, under the terms and conditions set forth in this proceeding, will not be adverse to the public interest. We will enter our order granting the application.

Kling Cartage Co. is 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.

ORDER

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 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. Arrowhead "U" Drive Corporation, on or after the effective date hereof and on or before December 31, 1960, may sell to Kling Cartage Co. its certificate of public convenience and necessity, which was granted by Decision No. 53638, dated August 28, 1956, in Application No. 36373.

2. Kling Cartage Co., a corporation, in payment for the assets of Harry R. Kling to be transferred to it in accordance with the terms and conditions set forth in this application, may assume the payment of outstanding indebtedness and may issue not to exceed 805 shares of its common capital stock.

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 common carrier operations here involved to show that Arrowhead "U" Drive Corporation has withdrawn or cancelled and Kling Cartage Co. 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. Kling Cartage 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. The authority herein granted shall become effective 20 days after the date hereof.

Dated at San Francisco, California, this 20th day of June, 1960:

Ernest W. Berg
President
John H. ...
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...
Theodore J. ...
Commissioners