

Decision No. 60665

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of BOYLE AND SON and UNITED DELIVERY SYSTEM, INC., by the former for the consolidation of certain operative rights and for the issuance of a new certificate in lieu of the old, for the sale of certain operative rights and operative equipment by the former to the latter, and for the issuance of a promissory note by the latter.

Application No. 42376

O P I N I O N

This application was filed on June 20, 1960, for an order of the Commission -

1. Authorizing Boyle and Son, a corporation, to transfer its operative rights and operative equipment to United Delivery System, Inc., and
2. Granting an in-lieu certificate of public convenience and necessity, and
3. Authorizing United Delivery System, Inc., to issue a note in the principal amount of \$7,600.

Boyle and Son, a corporation, as the successor to Harold B. Boyle, an individual, is a highway common carrier of commodities, with certain exceptions, generally between Los Angeles and San Diego and points and places in the vicinity of Escondido, Vista and Fallbrook, as defined in certificates of public convenience and necessity granted by Decision No. 44864, dated October 3, 1950, Decision No. 38258, dated September 25, 1945, Decision No. 36441, dated June 22, 1943, and Decision No. 23738, dated June 1, 1931.

which were acquired by Boyle and Son, a corporation, by Decision No. 46645, dated January 15, 1952, in Application No. 33025.

Applicant Boyle and Son now reports that it has not been realizing a profit in recent years, that it desires to dispose of the operations and that it has made arrangements to sell its operative rights, three pick-up and delivery trucks and certain office equipment to United Delivery System, Inc., for the sum of \$13,600, of which \$6,000 will be paid in cash and \$7,600 will be represented by a note payable in 30 monthly installments, with interest at the rate of 6 per cent per annum on the unpaid balance. The agreement of sale provides that arrangements will be made with Boyle and Son's parent company, Southern California Freight Lines, Ltd., and with its affiliate, Southern California Freight Forwarders, so as to effect the interchange of certain shipments at Los Angeles, Oceanside and Escondido.

United Delivery System, Inc., the purchaser, is a California corporation which has been engaged in business since September 1, 1959, as a radial highway common carrier in the Los Angeles and in the San Diego territories. It has reported its revenues for the first quarter of 1960 at \$32,813 and its net profit at \$2,894 and it has indicated its financial position as of March 1, 1960 as follows:

<u>Assets</u>	
Current assets	\$ 9,282
Tangible assets, less depreciation	22,067
Supplies and prepaid expense	<u>1,493</u>
Total	<u>\$32,842</u>
 <u>Liabilities and Net Worth</u>	
Current liabilities	\$ 1,278
Equipment contracts	4,250
Common stock and surplus	<u>27,314</u>
Total	<u>\$32,842</u>

The purchaser asserts that the additional business which would be available to it in its Los Angeles-San Diego operations through the acquisition of Boyle and Son's operations and the interline arrangements would improve its earnings position and should result in better service to the public. In support of the agreed purchase price, it is asserted that the actual costs of obtaining the operative rights of Boyle and Son were \$12,917.60 and that the net book costs of the tangible equipment to be transferred are \$2,016.42.

From a review of the application, it appears that there will be no interruption in the service presently being offered to the public. Upon the basis of the information before us, we find and conclude -

1. That the request for an in-lieu certificate, combining all of Boyle and Son's operative authority, should be granted;
2. That the proposed transfer will not be adverse to the public interest;
3. That the money, property or labor to be procured or paid for by the issue of the note herein authorized is reasonably required for the purpose specified herein and that such purpose, except as otherwise authorized, is not, in whole or in part, reasonably chargeable to operating expenses or to income;

4. That United Delivery System, Inc., in recording the purchase of the operative rights and equipment shall set up in its book accounts the amounts at which said rights and equipment are recorded on the books of the transferor as of the date the transfer is consummated; and
5. That United Delivery System, Inc., shall amortize the amount to be set up in its accounts as representing the cost of the operative rights over a period of five years commencing January 1, 1961, by equal annual charges to income or surplus.

In making our order herein, we place United Delivery System, Inc., upon 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,

IT IS HEREBY ORDERED -

1. That Boyle and Son, a corporation, on or before December 31, 1960, may sell and transfer and United Delivery System, Inc., a corporation, may purchase and acquire the operative equipment referred to in this application and the certificates of public convenience and necessity as a highway common carrier granted to or acquired by Boyle and Son, which operative rights are hereinafter set forth in Appendices A and B, attached hereto, and made a part hereof.

2. That the certificate of public convenience and necessity transferred to United Delivery System, Inc., by Paragraph 1 of this Order and set forth in Appendices A and B, attached hereto, is in lieu of and supersedes all existing certificates of public convenience and necessity granted to or acquired by Boyle and Son, which certificates are hereby canceled and revoked.

3. That on not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of the transfer authorized in Paragraph 1 of this Order, applicant shall supplement or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the highway common carrier operations here involved to show that Boyle and Son has withdrawn or canceled and United Delivery System, 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.

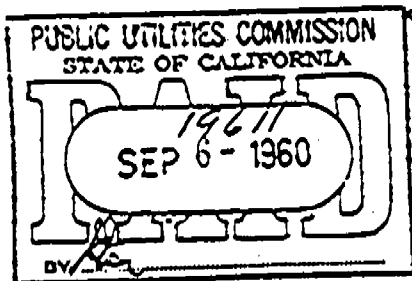
4. That United Delivery System, Inc., is authorized to issue a promissory note in the principal amount of not to exceed \$7,600 for the purpose set forth herein.

5. That United Delivery System, Inc., within 60 days after the acquisition of the rights and equipment herein authorized to be transferred, shall file with the Commission a copy of each journal entry used to record the acquisition and shall file 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. That United Delivery System, Inc., in recording on its books the acquisition of the operative rights and equipment, shall set up in its accounts the amounts at which said rights and equipment appear on the books of the transferor as of the date the transfer is consummated and thereafter shall amortize the amount representing the cost of the operative rights over a period of five years, commencing January 1, 1961, by equal annual charges to income or surplus.

7. That the authority herein granted will become effective when United Delivery System, Inc., has paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.

Dated at San Francisco, California, this 1st day of September, 1960.



Ernest All Page
President
[Signature]
[Signature]
[Signature]

Commissioners

United Delivery System, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport general commodities between all points and places on and laterally of the following routes as hereinafter set forth:

- (1) All points on and within 5 miles laterally of U.S. Highway 395 between San Diego and the San Diego-Riverside County Line. (See Restriction 2.)
- (2) All points on and within 5 miles laterally of State Highway 76 between San Luis Rey and Warner Dam Site (Lake Henshaw). (See Restriction 2.)
- (3) All points on and within 5 miles laterally of State Highway 78 between San Pasqual and Vista.
- (4) All points on and within 5 miles laterally of unnumbered county road (known as Mission Road) between Bonsall and Junction with U.S. Highway 395 via Fallbrook. (See Restriction 2.)
- (5) All points on and within 5 miles laterally of unnumbered county road (known as Valley Blvd.) between Escondido and Rincon Springs via Valley Center.
- (6) All points on and within 5 miles laterally of unnumbered county road between junction with State Highway 76 and Palomar Mountain.
- #(7) U.S. Highway 101 between Oceanside and Los Angeles including points located within ten miles laterally of U.S. Highway 101 between Oceanside and Santa Ana.
- #(8) U.S. Highway 101 Alternate between Dana Point and Los Angeles Harbor (Wilmington and San Pedro) including points located within ten miles laterally of U.S. Highway 101 Alternate between Dana Point and Newport Beach and three miles laterally between Newport Beach and the junction of U.S. Highway 101 Alternate and the Santa Ana River.
- #(9) Between Santa Ana and Los Angeles via U.S. Highway 101 to junction with Los Angeles Street in Anaheim, thence north via Los Angeles Street, Spadra Road and Fullerton Road to Whittier Blvd. in La Habra, thence west on Whittier Blvd. to downtown Los Angeles.

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- #(10) Between Santa Ana and Los Angeles Harbor west on 17th Street and Westminster Avenue to Verano Street, north on Verano Street to State Highway 22 (Garden Grove Blvd.), west on State Highway 22 to Long Beach, thence via U.S. Highway 101 Alternate to Los Angeles Harbor. (See Restriction 3.)
- #(11) Between Laguna Beach and Irvine via unnumbered county road (Laguna Canyon Road) including all points located within two miles laterally of Laguna Canyon Road.
- #(12) Between Newport Beach and Santa Ana via State Highway 55 (Newport Blvd.) and Main Street including all points located within three miles of Newport Blvd. and Main Street.
- (13) Between the Los Angeles Territory, as described in Appendix "B" attached hereto, on the one hand, and, on the other hand, all points and places described in subparagraphs (1) through (12) above.
- # Transportation to points and places on the routes referring hereto is limited to that which originates at or is destined to farms located within the territory served by these routes.

Through routes and rates may be established between any and all points specified in subparagraphs (1) through (12) above.

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Restrictions:

1. Applicant shall not transport any shipment having both point of origin and point of destination within the Los Angeles Territory as described in Appendix "B" attached hereto.
2. Applicant shall not serve any point located in Riverside County.
3. Applicant shall not transport any shipment having both point of origin and point of destination between Santa Ana and Los Angeles Harbor and intermediate points.
4. Applicant shall not transport any of the following property between the Los Angeles Territory and Vista:
 - a. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in paragraph (d) of Item No. 10-C of Minimum Rate Tariff No. 4-A.
 - b. New household goods, office and store fixtures and equipment as described above.

End of Appendix "A"

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LOS ANGELES TERRITORY includes that area embraced by the following boundary: Beginning at the intersection of Sunset Boulevard and U. S. Highway No. 101, Alternate; thence northeasterly on Sunset Boulevard to State Highway No. 7; northerly along State Highway No. 7 to State Highway No. 118; northeasterly along State Highway No. 118 through and including the City of San Fernando; continuing northeasterly and southeasterly along State Highway No. 118 to and including the City of Pasadena; easterly along Foothill Boulevard from the intersection of Foothill Boulevard and Michillinda Avenue to Valencia Way; northerly on Valencia Way to Hillcrest Boulevard; easterly and northeasterly along Hillcrest Boulevard to Grand Avenue; easterly and southerly along Grand Avenue to Greystone Avenue; easterly on Greystone Avenue to Oak Park Lane; easterly on Oak Park Lane and the prolongation thereof to the west side of the Sawpit Wash; southerly along the Sawpit Wash to the north side of the Pacific Electric Railway right of way; easterly along the north side of the Pacific Electric Railway right of way to Buena Vista Street; south and southerly on Buena Vista Street to its intersection with Meridian Street; due south along an imaginary line to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Beverly Boulevard; southeasterly on Beverly Boulevard to Painter Avenue in the City of Whittier; southerly on Painter Avenue to Telegraph Road; westerly on Telegraph Road to the west bank of the San Gabriel River; southerly along the west bank of the San Gabriel River to Imperial Highway; westerly on Imperial Highway to State Highway No. 19; southerly along State Highway No. 19 to its intersection with U. S. Highway No. 101, Alternate, at Ximeno Street; southerly along Ximeno Street and its prolongation to the Pacific Ocean; westerly and northerly along the shore line of the Pacific Ocean to a point directly south of the intersection of Sunset Boulevard and U. S. Highway No. 101, Alternate; thence northerly along an imaginary line to point of beginning.

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