

**ORIGINAL**

62676

Decision No. \_\_\_\_\_

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) CITIZENS TRANSPORTATION CO. OF RIVERSIDE, a corporation, to purchase, and of JOHN E. COTE, an individual, doing business as CITIZENS TRANSPORTATION CO., to sell a certificate of public convenience and necessity as a highway common carrier, a petroleum irregular route carrier, and as a warehouseman, pursuant to Sections 851-853 of the California Public Utilities Code.

(b) CITIZENS TRANSPORTATION CO. OF RIVERSIDE, a Corporation, to issue and sell shares of its capital stock, pursuant to Section 816-830 of the California Public Utilities Code.

Application No. 43742  
 Filed September 11, 1961

O P I N I O N

This is an application for an order of the Commission (1) authorizing John E. Cote, doing business as Citizens Transportation Co., to sell and transfer his operative rights, together with certain of his other assets, to Citizens Transportation Co. of Riverside, a corporation, and (2) authorizing said corporation to assume indebtedness and to issue \$115,000 par value of its capital stock.

John E. Cote operates as a public utility under the jurisdiction of this Commission as a highway common carrier of petroleum products and general commodities in portions of southern California under certificates of public convenience and necessity

granted by (1) Decision No. 42623, dated March 15, 1949, as amended by Decision No. 43049, dated June 28, 1949, and by Decision No. 43125, dated July 12, 1949, in Application No. 29546, with respect to the transportation of petroleum products, and (2) Decision No. 55154, dated June 18, 1957, as amended by Decision No. 55790, dated November 5, 1957, in Application No. 36433, with respect to the transportation of general commodities. Also, he operates as a public utility statewide petroleum irregular route carrier under a certificate of public convenience and necessity granted by Decision No. 44358, dated June 20, 1950, in Application No. 31155. In addition, he operates as a public utility warehouseman in the City of Riverside under a prescriptive operative right determined by the order dated July 26, 1960, in Case No. 6643.

The application shows that John E. Cote has concluded that his operations can be conducted more advantageously by means of a corporate form of organization; that he proposes to transfer his operative rights, together with certain of his other assets, to Citizens Transportation Co. of Riverside, a new corporation which he has caused to be formed for the express purpose of taking over such rights and other assets and continuing the operations; that, for a fixed term at a rental of \$800 per month, he will lease to said new corporation the portions of real property now being used in the performance of his carrier business; and that the warehouse business has been, and will be, conducted in leased premises which are not a part of the assets of the proprietary business.

Exhibit C attached to the application sets forth a "giving effect" balance sheet reflecting the proposed transactions as of September 30, 1961, a summary of which is as follows:

Assets

Cash and working funds	\$ 10,203.87
Prepayments and deposits	1,075.43
Revenue equipment - less depreciation reserves	131,369.34
Other tangible property - less depreciation reserves	<u>30,351.36</u>
Total	<u>\$173,000.00</u>

Liabilities and Capital

Equipment obligations due within one year	\$ 30,000.00
Equipment obligations due after one year	27,500.00
Capital	<u>115,500.00*</u>
Total	<u>\$173,000.00</u>

\* According to the application, \$115,000.00 of this amount will be represented by capital stock.

The application shows further that there will be no change in the rates or service as the result of the transfer and that the same operative properties and management will be available to the new corporation as are now utilized in the operations.

Upon reviewing the verified application, including the financial statements attached thereto, we find and conclude (1) that the proposed transfer will not be adverse to the public

interest; (2) that the proposed stock issue is for a proper purpose; (3) 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 (4) that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we will enter an order granting the application.

Citizens Transportation Co. of Riverside, a corporation, is hereby placed on notice that operative rights, as such, do not constitute a class of business 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. This monopoly feature may be modified or canceled 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, and that the application should be granted, therefore,

IT IS ORDERED that -

1. John E. Cote, on or after the effective date hereof and on or before January 31, 1962, may sell and transfer to Citizens Transportation Co. of Riverside, a corporation, his highway common carrier and petroleum irregular route carrier certificates of public convenience and necessity, public utility warehouseman prescriptive operative right, equipment and other assets, as set forth in this application. For accounting purposes said transfer may be made as of September 30, 1961.

2. Citizens Transportation Co. of Riverside, a corporation, on or after the effective date hereof and on or before January 31, 1962, in acquiring said certificates of public convenience and necessity, prescriptive operative right, equipment and other assets, may assume the payment of outstanding indebtedness and may issue not to exceed \$115,000 par value of its capital stock.

3. The public utility operative property withheld by John E. Cote from transfer to Citizens Transportation Co. of Riverside, a corporation, is not relieved from its devotion to the public use, and its status as public utility operative property shall continue.

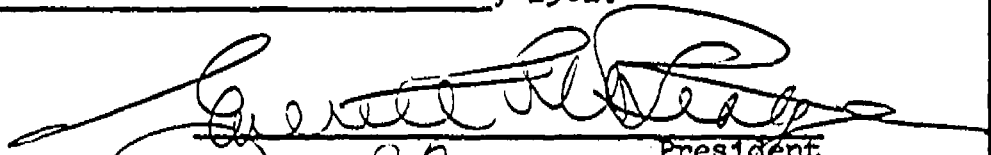
4. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations

governing the operations here involved to show that John E. Cote has withdrawn or canceled and that Citizens Transportation Co. of Riverside, 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 Orders Nos. 61 and 80.

5. Citizens Transportation Co. of Riverside, 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.

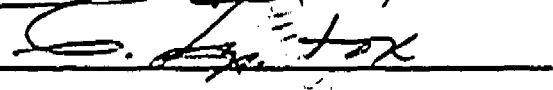
6. This order shall become effective 20 days after the date hereof.

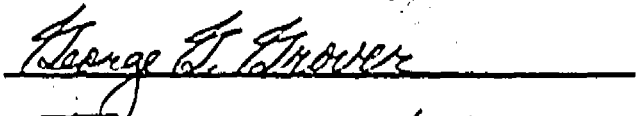
Dated at San Francisco, California,  
this 17<sup>th</sup> day of OCTOBER, 1961.

  
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President

  
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Commissioners