

ORIGINAL

Decision No. 65620

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of Clyde R. Hoagland, doing business as REDWAY TRANSFER CO., to transfer operative rights as a public utility warehouseman and as a highway common carrier of property to REDWAY TRUCK AND WAREHOUSE COMPANY, a California corporation, and for the latter to issue stock and promissory note. (Sec. 816-830, 851-853, Public Utilities Code)

Application No. 45429  
Filed May 14, 1963

O P I N I O N

This is an application for an order of the Commission (1) authorizing Clyde R. Hoagland to sell and transfer operative rights, equipment and other assets to Redway Truck and Warehouse Company, and (2) authorizing Redway Truck and Warehouse Company, in acquiring said assets, to assume outstanding indebtedness, and to issue \$15,000 par value of capital stock and an unsecured 6% note payable June 15, 1968, in the principal amount of \$27,966.65.

The operative rights to be transferred include a certificate of public convenience and necessity granted to Clyde R. Hoagland by Decision No. 61816, dated April 11, 1961, in Application No. 43084, authorizing operations as a highway common carrier for the transportation of general commodities,

with certain exceptions, between all points and places in the Los Angeles Basin Area; operative rights granted by the Interstate Commerce Commission; and permits to operate as a city carrier, a highway contract carrier and a radial highway common carrier, together with a prescriptive operative right as a public utility warehouseman for the operation of 50,000 square feet of storage or warehouse floor space in the City of Vernon, as defined by the Commission on August 1, 1960, in Case No. 6736.

The application shows that Clyde R. Hoagland desires to conduct his operations under a corporate form of organization and that he has arranged to transfer his rights, equipment and other assets to the corporation he has organized, namely, Redway Truck and Warehouse Company, in exchange for the stock and the note. The financial statement annexed to the application shows that the new corporation will take over the tangible and current assets at their book values, subject to liabilities, and the operative rights at the sum of \$15,000 which, assertedly, represents the costs of acquiring such rights.

The proposed note will be payable on or before June 15, 1968, with interest at the rate of 6% per annum, payable annually. The reported results of operation of the business show, for 1961, operating revenues of \$274,288 and net profit of \$11,706 and, for 1962, operating revenues of

\$356,370 and net profit of \$18,255, after charges for depreciation of \$15,849 in 1961 and of \$18,213 in 1962. It appears to us, upon analysis of the operating statements, that the issue of the note should not impair the ability of the carrier corporation to maintain the public service.

We find that the proposed transfer will not be adverse to the public interest; that the money, property or labor to be procured or paid for by the issue of the shares of stock and note 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. A public hearing is not necessary.

Redway Truck and Warehouse Company 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, such rights 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 operative rights and other assets to be transferred. So far as the rights are concerned, the authorization herein granted is for the transfer of only the highway common carrier certificate of public convenience and necessity and the prescriptive operative right as a public utility warehouseman now held by Clyde R. Hoagland. The transfer of permitted operative rights must be the subject of a separate application, or applications.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1963, Clyde R. Hoagland may sell and transfer, and Redway Truck and Warehouse Company may purchase and acquire, the public utility operative rights and properties referred to in the application. For accounting purposes a January 1, 1963 transfer date is authorized.

2. Redway Truck and Warehouse Company, for the purpose of acquiring the operative rights and other properties referred to in this application, may assume the payment of outstanding indebtedness and may issue not to exceed \$15,000 par value of capital stock and an unsecured note in the principal amount of not to exceed \$27,966.65, such note to be in the same form, or substantially the same form, as that attached to the application.

3. Within thirty days after the consummation of the transfer herein authorized, Redway Truck and Warehouse Company shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

4. Redway Truck and Warehouse Company shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the public utility warehouse and highway common carrier operations herein to show that it has adopted or established, as its own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. 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-A and 80-A.

5. Effective concurrently with the effective date of tariff filings required by Ordering Paragraph 4 hereof, the prescriptive operative authority set forth in the Order dated August 1, 1960, in Case No. 6736, is hereby revoked

and in place and stead thereof, prescriptive operative rights as a public utility warehouseman are stated for Redway Truck and Warehouse Company, as more particularly set forth in Appendix A attached hereto.

6. In providing service pursuant to the operative authority set forth herein, Redway Truck and Warehouse Company shall comply with and observe the following service regulations:

Within thirty days after the effective date hereof, it shall file a written acceptance of the operative rights herein stated. By accepting such operative rights, it is placed on notice that it will be required, among other things, to file annual reports of its operations. Failure to file such reports, in such form and at such time as the Commission may direct, may result in a cancellation of the operative authority set forth in Appendix A hereof.

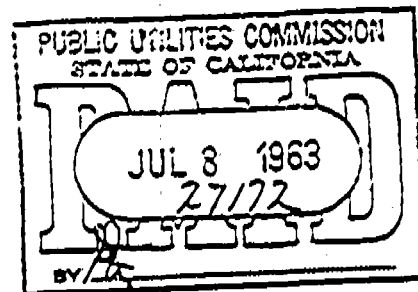
7. Redway Truck and Warehouse Company shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

8. The authority herein granted to issue a note shall become effective when Redway Truck and Warehouse Company has paid the fee prescribed by Section 1904(b) of the Public

Utilities Code, which fee is \$28. In all other respects the authority herein granted shall become effective twenty days after the date hereof.

Dated at San Francisco, California,  
this 2nd day of JULY, 1963.

George E. Crover  
President  
Arthur J. [unclear]  
Charles W. [unclear]  
Fredrick B. Holschoff  
William W. Brunck  
Commissioners



REDWAY TRUCK AND WAREHOUSE COMPANY  
(a corporation)

Redway Truck and Warehouse Company possesses a prescriptive operative right as a public utility warehouseman for the operation of storage or warehouse floor space as follows:

<u>Location</u>	<u>Number of Square Feet of Floor Space</u>
Vernon	50,000

(The floor space shown above is exclusive of the 50,000 square feet of expansion permissible under Section 1051 of the Public Utilities Code.)

End of Appendix A