

ORIGINAL

Decision No. 67209

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

APPLICATION OF ROBERT M. SCULLY and KATHLEEN A. SCULLY, doing business as CORONADO RAPID TRANSFER, to transfer operating rights and other public utility property to CORONADO RAPID TRANSFER, INC., a corporation, and of CORONADO RAPID TRANSFER, INC., a corporation, for authority to issue capital stock.

Application No. 46313
Filed March 25, 1964

O P I N I O N

This is an application for an order of the Commission (1) authorizing Robert M. Scully and Kathleen A. Scully, doing business as Coronado Rapid Transfer, to sell and transfer certain carrier operating rights and other property to Coronado Rapid Transfer, Inc., and (2) authorizing Coronado Rapid Transfer, Inc. to issue and sell \$9,000 par value of its capital stock.

Pursuant to authority granted by Decision No. 62904, dated December 5, 1961, in Application No. 43845, certain assets including a highway common carrier prescriptive operative right authorizing the transportation of property between Coronado and San Diego were transferred to Robert M. Scully and Kathleen A. Scully, doing business as Coronado Rapid Transfer. The present owners desire to sell and transfer said right and other assets totaling \$3,000 to Coronado Rapid Transfer, Inc. in exchange for stock.

Coronado Rapid Transfer, Inc., a California corporation organized on or about January 22, 1964, seeks authority to issue and sell, at par, 90 shares of its capital stock having an aggregate par value of \$9,000. It proposes to apply \$3,000 of the proceeds to the acquisition of the operative right and other assets from the transferors and to use the remaining \$6,000 for acquiring additional equipment and working capital. Applicants report that \$1,000 of the \$3,000 item represents capitalization of attorneys' fees, which they are willing to delete from the requested stock authorization.

The Commission has considered this matter and finds that: (1) the proposed sale and transfer would not be adverse to the public interest; (2) the money, property or labor to be procured or paid for by the issue of the \$8,000 par value of stock herein authorized is reasonably required for the purposes specified herein; and (3) such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we conclude that the application should be (1) dismissed with respect to \$1,000 of the proposed stock issue, and (2) granted in all other respects except as it relates to permitted operative rights. A public hearing is not necessary.

Coronado Rapid Transfer, Inc. 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 over a particular route. 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 right and other assets to be transferred. So far as the right is concerned, the authorization herein granted is for the transfer of only the highway common carrier prescriptive operative right. 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, 1964, Robert M. Scully and Kathleen A. Scully, doing business as Coronado Rapid Transfer, may sell and transfer, and Coronado Rapid Transfer, Inc. may purchase and acquire, the prescriptive operative right and other assets referred to in the application.

2. Coronado Rapid Transfer, Inc., on or before December 31, 1964, for the purposes specified in the foregoing opinion, may issue and sell, at par, not to exceed \$8,000 par value of its capital stock.

3. Within thirty days after the consummation of the transfer herein authorized, Coronado Rapid Transfer, Inc. 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. Coronado Rapid Transfer, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the 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 Order No. 80-A.

5. On or before the end of the third month after the consummation of the transfer as herein authorized, Coronado Rapid Transfer, Inc. shall cause to be filed with the Commission, in such form as it may prescribe, an annual report, or reports, covering the period commencing with the first day of the current year to and including the effective date of the transfer.

6. Coronado Rapid Transfer, Inc. shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is hereby made a part of this order.

7. This application, insofar as it seeks authority to issue and sell \$1,000 par value of capital stock in excess of the amount herein authorized, is hereby dismissed.

8. The effective date of this order is the date hereof.

Dated at San Francisco, California, this 19th day of May, 1964.

William L. Beard
President

Charles W. Reg

George A. Crowe

Frederick B. Hallock
Commissioners