

ORIGINAL

Decision No. 68412

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:)
 L. H. DCWE, an individual, dba)
 PIONEER TRANSFER CO. OF CALEXICO, to)
 transfer and of RELIABLE DELIVERY)
 SERVICE, INC., a corporation, to)
 acquire the Certificate of Public)
 Convenience and Necessity and certain)
 motor vehicle equipment of L. H.)
 DOWE, dba PIONEER TRANSFER CO. OF)
 CALEXICO.)

Application No. 47204
(Filed December 22, 1964)

O P I N I O N

This is an application for an order of the Commission authorizing L. H. Dowe, an individual doing business as Pioneer Transfer Co. of Calexico, to lease, sell and transfer and Reliable Delivery Service, Inc. to hire, purchase and acquire a highway common carrier certificate of public convenience and necessity, together with certain related assets.

By Decision No. 55157 dated June 18, 1957, as amended by Decision No. 56441 dated April 1, 1958, in Application No. 36360, the Commission granted to the transferor (Dowe) a certificate of public convenience and necessity as a highway common carrier of general commodities between all points and places in Imperial County and between those points, on the one hand, and on the other hand, Los Angeles Territory as described in said decisions. He also possesses certain authority to transport specific commodities between certain limited points. Transferor reports that he is physically unable to continue the operations and that a managing agent employed by him has also become physically incapacitated. For these reasons transferor desires to retire from business.

Under the terms of a purchase agreement entered into on November 30, 1964, a copy of which is attached to the application as Exhibit A, Dowe proposes to sell his operating rights and certain related assets to Reliable Delivery Service, Inc., a corporation, for a cash consideration of \$7,500. Exhibit B, annexed to the application, is a copy of a lease agreement also entered into on November 30, 1964, wherein the transferee (Reliable) proposes to lease said operating rights and assets from Dowe for a monthly rental of \$300 pending final consummation of the purchase transaction upon approval of by this Commission and by the Interstate Commerce Commission. The purchase price will be reduced in an amount equal to \$50 times the number of monthly rentals paid under the lease. Applicants allege that such an arrangement is necessary because of the physical inability of transferor and the physical incapacity of his managing agent.

The application shows that Reliable is engaged in the business of transporting property in California both under certificates of public convenience and necessity and permits. The income statement attached to the application as Exhibit D indicates that for the first ten months of 1964 its revenues and net profit, after federal taxes, were \$1,761,986 and \$41,395, respectively. Reliable advises that it is financially able to consummate the transaction by cash payment.

The Commission finds that:

1. The proposed lease, sale and transfer of a highway common carrier certificate of public convenience and necessity, together with certain related assets, for a cash consideration, and under the circumstances set forth in this application would not be adverse to the public interest.

2. The proposal of transferee to adopt the transferor's presently approved tariff filings on ten days' notice to the Commission and to the public is reasonable.

The Commission concludes that the application should be granted.

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 the highway common carrier certificate of public convenience and necessity only. 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. L. H. Dowe, an individual doing business as Pioneer Transfer Co. of Calexico, may lease, sell and transfer, and Reliable Delivery Service, Inc. may hire, purchase and acquire, the highway common carrier certificate of public convenience and necessity and certain other related assets, in accordance with the terms of the Purchase Agreement and the Lease Agreement, copies of which are attached to the application as Exhibits A and B, respectively.

2. Within thirty days after the consummation of the transfer herein authorized, Reliable Delivery Service, 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.

3. Reliable Delivery Service, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that it has

adopted or established, as its own, said rates and rules. The tariff filings shall be made effective not earlier than ten days after the 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, Reliable Delivery Service, 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.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 30th day of DECEMBER, 1964.

Frederic B. Hallock
President
George G. Grover
William M. Bennett

Commissioners

Commissioner George G. Grover
present but not voting.