

**ORIGINAL**

Decision No. 70673

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

PAUL R. KEMP, SR. and JACK B. KEMP, a partnership doing business under the fictitious firm name of CALIFORNIA DELIVERY SERVICE, to sell, and of WILLIAM J. BOWMAN, an individual, to purchase, a certificate of public convenience and necessity for the transportation of general commodities between points in the Los Angeles Territory, pursuant to Sections 851-853 of the California Public Utilities Code.

Application No. 48268  
(Filed February 24, 1966)  
(Amended March 23, 1966)

O P I N I O N

This is an application for an order of the Commission, (1) authorizing Paul R. Kemp, Sr. and Jack B. Kemp, a partnership, doing business as California Delivery Service (Service), to sell and transfer a highway common carrier certificate of public convenience and necessity, various permitted authority, together with motor vehicle equipment and related assets, to William J. Bowman (Bowman), an individual, and (2) authorizing Bowman to issue a promissory note in the principal amount of \$30,000.

By Decision No. 51718, dated July 18, 1955, as amended and supplemented by Decision No. 58988, dated September 15, 1959, and Decision No. 60780, dated September 27, 1960, the Commission granted to Service a certificate of public convenience and necessity authorizing operations as a highway common carrier of

general commodities, with certain exceptions, in the Los Angeles Territory.

Bowman, who has no present operating authority, proposes to acquire (1) the certificate of public convenience and necessity issued in Decision No. 51718, as amended and supplemented; (2) a Certificate of Registration issued to Service by the Interstate Commerce Commission in No. MC-99578 (Sub-No. 1); and (3) certain motor vehicle equipment and property. The total purchase price of the aforesaid described tangible and intangible property is \$60,000, including interstate rights valued at \$500. Because of the interstate rights involved, this transaction is being submitted concurrently to the Interstate Commerce Commission. Bowman proposes to pay \$30,000 in cash and issue his promissory note secured by chattel mortgage in the amount of \$30,000, with interest on unpaid principal at the rate of 6 per cent per annum; principal and interest payable in monthly installments of \$500 or more.

An itemization of the property to be transferred and the value placed upon each item by applicant is as follows:

Operating Authority

(a) Intrastate rights . . . . .	\$ 500.00
(b) Interstate rights . . . . .	500.00

Operating Equipment

Six trucks (per independent appraisal) . . .	8,120.00
Office Furniture and Fixtures . . . . .	613.00
Other business equipment . . . . .	1,700.00
Office Supplies . . . . .	300.00

Goodwill and name "California Delivery Service"	48,267.00
Total Assets -	<u>\$ 60,000.00</u>

Bowman is aware that most of his purchase price is for the name "California Delivery Service" and goodwill. He proposes to meet his payments on the \$30,000 note from earnings derived from the business. If such earnings are insufficient for this purpose, Bowman will make said payments out of income derived from his deeds of trust and real property.

Bowman's financial statement as of October 1, 1965, is as follows:

ASSETS

Cash in Bank . . . . .	\$ 3,850.03
Accounts Receivable . . . . .	742.50
Real Estate . . . . .	41,850.00
Trust Deeds . . . . .	40,508.57
Cash Value, Life Insurance . . . . .	1,000.00
Autos . . . . .	4,800.00
Personal Property . . . . .	5,000.00
Miscellaneous Property . . . . .	400.00
Total -	<u>\$ 98,151.10</u>

LIABILITIES

Notes Payable . . . . .	\$ 4,456.00
Accounts Payable . . . . .	521.47
Mortgages . . . . .	26,888.38
Long-term Contract . . . . .	4,418.90
Net Worth . . . . .	61,866.35
Total -	<u>\$ 98,151.10</u>

Service shows a net income of \$20,720 for the calendar year 1965.

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 note herein authorized is reasonably required for the purpose specified herein; and
- (3) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary.

On the basis of the foregoing findings we conclude 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 intrastate highway common carrier certificate of public convenience and necessity only. A separate application is required to transfer the permitted authority.

O R D E R

IT IS ORDERED that:

1. On or after the effective date hereof and on or before July 31, 1966, Paul R. Kemp, Sr. and Jack B. Kemp, a partnership doing business as California Delivery Service, may sell and transfer, and William J. Bowman, an individual, may purchase and acquire the highway common carrier certificate of public convenience and necessity and other assets referred to in the application, as amended.

2. William J. Bowman, on or after the effective date hereof and on or before July 31, 1966, may execute and deliver a security agreement and may issue a promissory note to Paul R. Kemp, Sr. and Jack B. Kemp in the principal amount of not to exceed \$30,000 for the purpose specified in the application. Said documents shall be in the same form, or in substantially the same form, as those filed in this proceeding.

3. William J. Bowman shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

4. Within thirty days after the consummation of the transfer herein authorized, William J. Bowman 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.

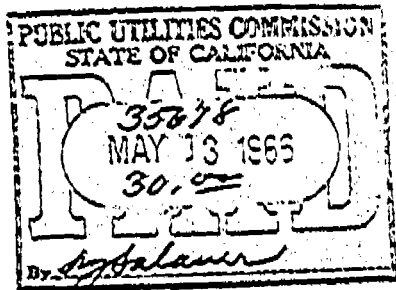
5. William J. Bowman shall amend or reissue the tariffs on file with the Commission naming rates and rules governing the common carrier operations herein to show that he has adopted or established, as his own, said rates and rules. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty 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.

6. On or before the end of the third month after the consummation of the transfer as herein authorized, William J. Bowman shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports, related to the operations of the seller for the period

commencing with the first day of the current year to and including the effective date of the transfer.

7. This order shall become effective when William J. Bowman has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$30.

Dated at San Francisco, California, this 10<sup>th</sup> day of MAY, 1966.



Fredrick B. Holliff  
President

George H. Hoover

Wojahn

William L. Brown  
Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.