

ORIGINAL

Decision No. 72695

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of)
LYLE V. ABBOTT, an individual,)
doing business under the firm)
name and style of Ace City)
Delivery and Ace City Warehouse,)
and)
ACE CITY DELIVERY, a corporation,)
Applicants.)

Application No. 49349
Filed May 2, 1967

O P I N I O N

This is an application for an order of the Commission (1) authorizing Lyle V. Abbott, doing business as Ace City Delivery and Ace City Warehouse, to sell and transfer his highway common carrier certificate of public convenience and necessity and his public utility warehouseman operative right, together with related assets, to Ace City Delivery, a corporation, and (2) authorizing the latter, in acquiring said assets, subject to certain liabilities, to issue 2,000 shares of its no par value capital stock.

By Decision No. 61292, dated January 4, 1961, in Application No. 42792, the Commission granted a certificate of public convenience and necessity to Lyle V. Abbott authorizing the transportation of general commodities, with certain

exceptions, between all points and places within the Los Angeles Basin Territory. Lyle V. Abbott also possesses permits issued by the Commission as a radial highway common carrier, a city carrier and a household goods carrier.

By Decision No. 65979, dated September 10, 1963, in Application No. 45545, the Commission authorized the transfer from Alco Transportation Co. to Lyle V. Abbott of a prescriptive warehouseman operative right relating to a portion of Los Angeles County.

Ace City Delivery is a California corporation organized on or about April 6, 1965. It appears that through inadvertence 2,000 shares of the corporation's capital stock were issued shortly after it was organized and that the business was operated on a corporate basis since that time, without first obtaining authorization from the Commission.

The balance sheet as of December 31, 1966, attached to the application as Exhibit C, shows total assets of \$47,096, offset by liabilities of \$28,483 and net worth of \$18,613. No value is assigned to the certificate of public convenience and necessity or other operative rights.

The Commission has considered this matter and finds that: (1) the stock and stock certificates previously issued for 2,000 shares of capital stock of Ace City Delivery are void; (2) the transactions proposed in this proceeding will not be adverse to the public interest; (3) 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) such purpose is 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 granted. A public hearing is not necessary.

The action taken herein shall not be construed as a finding of the value of the highway common carrier certificate of public convenience and necessity, the public utility warehouseman operative right and other assets to be transferred.

Applicants are hereby placed on notice that the maximum amount of storage or warehouse floor space permissible under said public utility warehouseman operative right is 54,000 square feet, consisting of the 4,000 square feet stated in the right, plus the 50,000 square feet of expansion permissible under Section 1051 of the Public Utilities Code. An appropriate certificate of public convenience and necessity is required for any increase over said 54,000 square feet.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1967, Lyle V. Abbott may sell and transfer, and Ace City Delivery, a corporation, may purchase and acquire, the highway common carrier certificate of public convenience and necessity, the public utility warehouseman operative right and other assets referred to in this proceeding.

2. Ace City Delivery, a corporation, on or before December 31, 1967, for the purpose of acquiring said certificate, public utility warehouseman operative right and other assets,

subject to outstanding liabilities, may issue stock and stock certificates for not exceeding 2,000 shares of its no par value capital stock to replace a like number of shares issued without this Commission's authority.

3. Ace City Delivery, a corporation, 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, Ace City Delivery, a corporation, 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. Ace City Delivery, a corporation, shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the highway common carrier and warehouse 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 Orders Nos. 61-A and 80-A.

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

Dated at San Francisco, California, this 6th day of JULY, 1967.

[Signature]
President

[Signature]
[Signature]
[Signature]
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.