

**ORIGINAL**Decision No. 75534

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of ROWE TRANSPORTATION INC., a )  
California corporation, for an )  
order authorizing it to issue )  
stock; and of John D. Rowe, dba )  
Rowe Transportation, a sole pro- )  
prietorship, to transfer certain )  
of his assets and property in )  
exchange for said shares. )

Application No. 50854  
(Filed February 4, 1969)

O P I N I O N

John D. Rowe now operates as a highway common carrier, under certificate granted August 28, 1956 by Decision No. 53649, in Application No. 36439.<sup>1/</sup> The property used in the business is alleged to be the community property of John D. and Masella B. Rowe. In connection with a plan to incorporate said business, applicants seek the following authorization:

- (a) To Rowe Transportation Inc., to issue 2,000 shares of \$50 par value stock in exchange for the property and operating rights of the sole proprietorship;
- (b) To John D. Rowe to transfer to the corporation the property used and useful in the highway common carrier operations with the exception of the real property and structures at 9879 San Fernando Road, Pacoima, which is to be retained and leased to the corporation;
- (c) To Rowe Transportation Inc., to assume all the liabilities of the sole proprietorship with the exception of the encumbrance on the real property mentioned above; and

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<sup>1/</sup> John D. Rowe also holds permits as a radial highway common carrier and highway contract carrier.

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- (d) To John D. Rowe to transfer the above certificate to Rowe Transportation Inc.

The stock is to be issued in the following proportions:

1700 shares to John D. Rowe and Masella B. Rowe as community property and 300 shares to Donald M. Rowe, their son, who is presently active in the carrier operation.

A balance sheet of the proprietorship as of December 31, 1968 is set forth in Exhibit "C" to the application and is summarized as follows:

ASSETS

Current Assets	\$ 56,721.37
Tangible Property	326,289.71
Intangible Property	975.00
Deferred and Misc. Debits	<u>26,988.58</u>
Total Assets	\$410,974.66

LIABILITIES

Current Liabilities	\$ 69,363.99
Long Term Debt	
Due within one year	79,940.89
Due after one year	134,235.28
Sole Proprietorship Capital	<u>127,434.50</u>
Total Liabilities & Equity	\$410,974.66

The Commission has considered this matter and finds that:

1. The proposed transactions will not be adverse to the public interest.
2. The money, property or labor to be procured or paid for by the issue of stock herein authorized is reasonably required for the purpose specified herein.
3. 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. The application was noted on the Commission's Daily Calendar of February 5, 1969 and no protests have been received. A public hearing is not necessary.

Insofar as operating rights are concerned, the authorization granted herein extends only to the certificate of public convenience and necessity. The application for transfer of the permits held by John D. Rowe will be considered separately.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

In issuing our order herein, we place applicant and its shareholders on notice that we do not regard the number of shares outstanding, the total par value of the shares nor the dividends paid as measuring the return applicant should be allowed to earn on its investment in plant and that the authorization herein given is not to be construed as a finding of value of applicant's stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

Rowe Transportation 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.

O R D E R

IT IS ORDERED that:

1. On or before December 31, 1969, John D. Rowe may sell and transfer, and Rowe Transportation Inc., may purchase and acquire, the certificate of public convenience and necessity referred to in the opinion, and the property described in pages 1 and 2 of Exhibit B of the application. On or before December 31, 1969, Rowe Transportation Inc., may assume the obligations of the sole proprietorship, excluding the obligation secured by deed of trust on the real property situated at 9879 San Fernando Road, Pacoima. In the event that the Interstate Commerce Commission has not authorized the transfer of John D. Rowe's interstate operating authority to occur before December 31, 1969, applicants may seek extension of the time limits imposed herein.

2. On or before December 31, 1969, Rowe Transportation Inc. may issue 2,000 or fewer shares of its \$50 par value stock, in the manner and for the purposes stated in the application.

3. Within thirty days after the consummation of the transfer herein authorized, Rowe Transportation 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. Rowe Transportation Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations referred to herein to show that it has adopted or established, as its own, said rates and rules. The tariff filings shall be made effective 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. Failure to comply with and observe the provisions of General Order No. 80-A may result in a cancellation of the operating authority acquired pursuant to this decision.

5. On or before the end of the third month after the consummation of the transfer as herein authorized, Rowe Transportation Inc. 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.

6. In providing service pursuant to the certificate acquired pursuant to the authority herein granted, applicant corporation shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority authorized to be acquired by this decision.

- (a) Applicant corporation is placed on notice that, if it acquires the certificate of public convenience and necessity herein authorized to be transferred, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-E.
- (b) Applicant corporation shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content and number of copies as the Commission, from time to time, shall prescribe.

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7. Whenever Rowe Transportation Inc. engages other carriers for the transportation of property of Rowe Transportation Inc., or customers or suppliers of said corporation, Rowe Transportation Inc. shall not pay such other carriers less than the rates and charges published in Rowe Transportation Inc.'s tariffs on file with the Commission for the transportation actually performed by such other carriers.

8. Rowe Transportation Inc. shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby incorporated herein.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 8<sup>th</sup> day of APRIL, 1969.

William Lyons Jr.  
President

Augustus

Paul H. Morrison

Victoria J. ...

[Signature]  
Commissioners