

Decision No. 78443

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of WILLIAM J. BOWMAN, an)
individual, d.b.a. CALIFORNIA)
DELIVERY SERVICE, to transfer)
Certificate of Public Convenience)
and Necessity to CALIFORNIA)
DELIVERY SERVICE, a California)
corporation.)

Application No. 52401
Filed January 15, 1971
and Amendment
Filed February 26, 1971

O P I N I O N

William J. Bowman, doing business as California Delivery Service, seeks an order of the Commission authorizing him to transfer his highway common carrier certificate of public convenience and necessity to California Delivery Service, a corporation, and the latter seeks authority to issue 1,000 shares of its \$10 par value common stock.

William J. Bowman operates as a highway common carrier transporting general commodities, with certain exceptions, in the Los Angeles Territory under a certificate of public convenience and necessity acquired pursuant to authority granted by Decision No. 70673, dated May 10, 1966, in Application No. 48268. He also operates under the jurisdiction of the Interstate Commerce Commission.

California Delivery Service is a California corporation incorporated on or about April 7, 1970. The company proposes to acquire the California certificate of public convenience and necessity and other operating rights of William J. Bowman plus \$3,000 working capital in exchange for 300 shares of its \$10

par value common stock. Its pro forma balance sheet, after giving effect to the proposed transactions, is summarized from Exhibit B, filed in this proceeding, as follows:

<u>Assets</u>	
Cash	\$3,000
Operating rights	<u>1,300</u>
Total	<u>\$4,300</u>
<u>Liabilities</u>	
Common stock	\$3,000
Paid-in capital	<u>1,300</u>
Total	<u>\$4,300</u>

After consideration the Commission finds that:

1. The proposed transfer would not be adverse to the public interest.
2. The proposed stock issue to the extent authorized herein is for proper purposes.
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 purposes specified herein, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude that the application, as amended, should be dismissed insofar as it relates to the request for issuance of 700 shares of common stock in excess of the 300 shares shown on said Exhibit B, and granted in all other respects. A public hearing is not necessary. The action taken herein shall not be construed as a finding of the value of the properties to be transferred.

California Delivery Service, a corporation, 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, these rights extend to the holder a full or partial monopoly of a class of business. 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. William J. Bowman may sell and transfer, and California Delivery Service, a corporation, may purchase and acquire, the highway common carrier certificate of public convenience and necessity referred to in the application, as amended. The transfer may be made effective as of January 1, 1971, for accounting purposes.
2. California Delivery Service, a corporation, on or after the effective date hereof and on or before June 30, 1971, for the purposes specified in this proceeding, may issue and sell not exceeding 300 shares of its \$10 par value common stock.
3. California Delivery Service, 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, California Delivery Service, 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. California Delivery Service, a corporation, 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 five days after the effective date of this order on not less than five 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.

6. Within thirty days after the transfer herein authorized is consummated, California Delivery Service, a corporation, shall file a written acceptance of the certificate. California Delivery Service, a corporation, is placed on notice that, if it accepts such certificate, 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-F.

7. California Delivery Service, a corporation, shall maintain its accounting records on a calendar year basis in

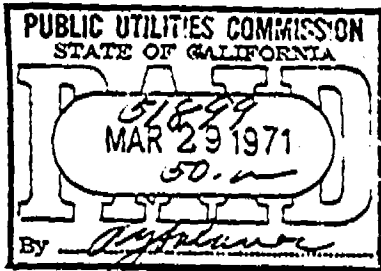
conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

8. California Delivery Service, a corporation, shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If California Delivery Service, a corporation, elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. The application, as amended, is hereby dismissed insofar as it pertains to the request for authority to issue 700 shares of common stock in excess of the 300 shares authorized by Ordering Paragraph No. 2 hereof.

10. This order shall become effective when California Delivery Service, a corporation, has paid the minimum fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$50.

Dated at San Francisco, California, this 5th day of MARCH, 1971.



[Signature]
Chairman
[Signature]
Commissioners
[Signature]
Commissioners

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