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79153

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter (1) of the Application
of CLAYTON MILLER, doing business as
DEL REYE VAN & STORAGE, to sell, and
DEL REYE VAN & STORAGE, INC. to pur-
chase highway common carrier operating
rights, and related assets, (2) to
assume liabilities of transferor, and
(3) of the Application of DEL REYE VAN
& STORAGE, INC. to issue stock.

Application No. 52687
(Filed June 15, 1971)

O P I N I O N

By joint application Clayton Miller and Del Reye Van & Storage, Inc. seek approval of the transfer of assets and highway common carrier certificate and of the assumption of liabilities and issuance of stock necessary to accomplish an incorporation of applicant Miller's carrier business.

Miller, as well as operating under a household goods carrier permit, also has a highway common carrier certificate^{1/} for the transportation of uncrated household goods, furniture and office fixtures.

Del Reye, under its articles of incorporation, may issue 75,000 shares of common stock at a \$1.00 par value. It proposes to issue 41,819 shares for the net assets of Miller's business.

All of transferor's employees will be hired by transferee; Clayton Miller will continue as active manager of the corporation's business. A pro forma statement of transferee's assets giving effect to the proposed transfer is appended to the application.

^{1/} Decision No. 68804 in Application No. 47303, as amended by Decision No. 69367, and Decision No. 78602 in that same application.

The Commission finds that 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 and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

The Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Clayton Miller and the issuance of a certificate in appendix form to Del Rey Van & Storage, Inc.

Del Rey Van & Storage, 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.

In issuing our order herein, we also place Del Rey Van & Storage, Inc. 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 it 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 its stock or properties nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates.

O R D E R

IT IS ORDERED that:

1. On or before January 1, 1972, Clayton Miller may sell and transfer, and Del Rey Van & Storage, Inc. may purchase and acquire, the operative rights and property referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, purchaser 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. Purchaser 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 granted by this decision.

4. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Del Rey Van & Storage, Inc. authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points and over the routes particularly set forth in Appendix A attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted in paragraph 4 of this order shall supersede the certificate

of public convenience and necessity granted by Decision No. 68804, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

6. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate herein granted. Purchaser is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, 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. Purchaser 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. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. Del Rey Van & Storage, Inc. may issue not exceeding 41,819 shares of \$1.00 par value common stock to Clayton Miller in exchange for the assets authorized to be transferred herein and may assume the liabilities of Clayton Miller.

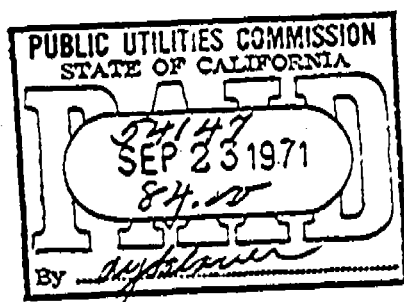
10. Del Rey Van & Storage, Inc. shall file with the Commission the report required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.

11. The authority herein granted to issue stock will become effective when purchaser has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$84.00. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 21st
day of SEPTEMBER, 1971.

J. M. McLaughlin
Chairman
William Symons - Jr.

Thomas L. Stinger
Commissioners



Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

Del Rey Van & Storage, Inc. is authorized, subject to the restriction hereinafter noted, to transport uncrated and unboxed household goods, furniture (including antiques), office fixtures and furniture between Los Angeles and Santa Barbara and intermediate points over and along U. S. Highway 101, with the right to detour for pickup or delivery, 30 miles on either side of said highway at all points between the north limits of the City of Los Angeles and the west limits of the City of Santa Barbara.

RESTRICTION: Del Rey Van & Storage, Inc. is not authorized to transport used household goods and personal effects, office, store and institution furniture and fixtures by means of a motor vehicle or motor vehicles being used exclusively in the transportation of said commodities under this authority.

(END OF APPENDIX A)

Issued by the California Public Utilities Commission.

Decision No. 79153, Application No. 52637.