

ORIGINAL

Decision No. 79535

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of W. ROSS STARKEY,)
 an individual doing business as)
 PACIFIC MESSENGER SERVICE, to)
 sell certificate of public)
 convenience and necessity to)
 operate as a highway common)
 carrier together with assets)
 used and useful in the public)
 service; of PACIFIC MESSENGER)
 SERVICE, INC., a California)
 corporation, to purchase said)
 certificate of public)
 convenience and necessity and)
 assets and to issue capital)
 stock.)

Application No. 53008
Filed November 19, 1971

O P I N I O N

W. Ross Starkey, doing business as Pacific Messenger Service, seeks an order of the Commission authorizing him to transfer his highway common carrier certificate of public convenience and necessity and related assets to Pacific Messenger Service, Inc., and the latter seeks authority to issue 900 shares of its \$100 par value capital stock.

W. Ross Starkey operates as a highway common carrier of general commodities in portions of San Diego County pursuant to the certificate of public convenience and necessity granted

by Decision No. 72117, dated March 7, 1967, as subsequently amended, in Application No. 48396. Operations are also conducted under permits issued by this Commission.

Pacific Messenger Service, Inc. is a California corporation incorporated on or about July 15, 1971. In exchange for said certificate and related assets, subject to current liabilities, the corporation proposes to issue 900 shares of its \$100 par value capital stock. A pro forma balance sheet as of September 30, 1971, after giving effect to the proposed transactions, is summarized from Exhibit A of Appendix B, attached to the application, as follows:

<u>Assets</u>	
Current assets	\$64,759
Net property and equipment	<u>29,872</u>
Total	<u>\$94,631</u>
<u>Liabilities</u>	
Current liabilities	\$ 4,631
Common stock	<u>90,000</u>
Total	<u>\$94,631</u>

After consideration the Commission finds that:

1. The proposed transfer would not be adverse to the public interest.
2. The proposed stock issue is for a proper purpose.

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, which purpose is 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 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 properties to be transferred. So far as the rights are concerned the authorization herein granted is for the transfer of the highway common carrier certificate of public convenience and necessity only. Any transfer of permitted operative rights must be the subject of a separate application or applications.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by W. Ross Starkey and the issuance of a certificate in appendix form to Pacific Messenger Service, Inc.

Pacific Messenger Service, 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, 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. On or before April 30, 1972, W. Ross Starkey may sell and transfer, and Pacific Messenger Service, Inc. may purchase and acquire, the highway common carrier certificate of public convenience and necessity and related assets referred to in the application.
2. Pacific Messenger Service, Inc., on or after the effective date hereof and on or before April 30, 1972, in acquiring said certificate and assets, may issue not exceeding 900 shares of its \$100 par value capital stock.
3. Pacific Messenger Service, 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.
4. Within thirty days after the consummation of the transfer herein authorized, Pacific Messenger Service, 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.

5. Pacific Messenger Service, Inc. shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the highway 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.

6. Pacific Messenger Service, Inc., in adopting the tariffs now on file with the Commission in compliance with Ordering Paragraph No. 5 hereof, may depart from the provisions of Section 460 of the Public Utilities Code.

7. In the event the transfer authorized in Paragraph No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Pacific Messenger Service, Inc. authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points particularly set forth in Appendices A, B and C attached hereto and made a part hereof.

8. The certificate of public convenience and necessity granted in Paragraph No. 7 of this order shall supersede the certificate of public convenience and necessity granted to W. Ross Starkey by Decision No. 72117, as amended, which certificate is revoked effective concurrently with the effective date of the tariff filings required by Paragraph No. 5 hereof.

9. Within thirty days after the transfer herein authorized is consummated, Pacific Messenger Service, Inc. shall file a written acceptance of the certificate herein granted. Pacific Messenger Service, Inc. 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.

10. Pacific Messenger Service, Inc. 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.

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

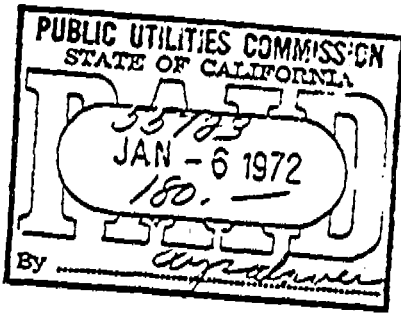
12. The authority herein granted to issue stock shall become effective when Pacific Messenger Service, Inc. has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$180. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 4th day of JANUARY, 1972

[Signature]
 _____ Chairman
[Signature]

[Signature]

[Signature]
 _____ Commissioners



Pacific Messenger Service, Inc., a corporation, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of general commodities:

1. Between all points and places in San Diego Territory as described in Appendix B attached hereto.
2. Between all points and places in San Diego Territory as described in said Appendix B, on the one hand, and all points and places in North County Territory as described in Appendix C, attached hereto, on the other hand, subject to the restriction that no single shipment shall weigh more than 50 pounds.

Applicant shall not transport any shipment of:

1. Used household goods and personal effects not packed in accordance with the crated property requirements set forth in Item No. 5, Minimum Rate Tariff No. 4-8.
2. Automobiles, trucks and buses, viz.: new and used, finished or unfinished passenger automobiles (including jeeps), ambulances, hearses and taxis; freight automobiles, automobile chassis, trucks, truck chassis, truck trailers, trucks and trailers combined, buses, bus chassis.
3. Livestock, viz.: barrows, boars, bulls, butcher hogs, calves, cattle, cows, dairy cattle, ewes, feeder pigs, gilts, goats, heifers, hogs, kids, lambs, oxen, pigs, rams (bucks), sheep, sheep camp outfits, sows, steers, stags, swine or wethers.
4. Commodities requiring protection from heat by the use of ice (either water or solidified carbon dioxide) or by mechanical refrigeration.

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5. Liquids, compressed gases, commodities in semi-plastic form and commodities in suspension in liquids in bulk, in tank trucks, tank trailers, tank semi-trailers or a combination of such vehicles.
6. Commodities when transported in bulk in dump trucks or in hopper type trucks.
7. Commodities when transported in motor vehicles equipped for mechanical mixing in transit.
8. Trailer coaches and campers, including integral parts and contents when the contents are within the trailer coach or camper.

(END OF APPENDIX A)

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SAN DIEGO TERRITORY includes that area embraced by the following imaginary line: starting at the junction of Miramar Road and Interstate Highway 5; thence easterly to the center of the community of Miramar on Interstate Highway 15; thence southeasterly to Lakeside on State Highway 67; thence southerly to Interstate Highway 8 south of Bostonia; thence southeasterly to Jamul on State Highway 94; thence due south to the International Boundary Line; thence westerly along the International Boundary Line to the Pacific Ocean; thence northerly along the coast line of the Pacific Ocean to the intersection of the prolongation of the imaginary line extending west from the junction point of Miramar Road and Interstate Highway 5; thence east to the point of beginning.

(END OF APPENDIX B)

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NORTH COUNTY TERRITORY includes that area embraced by an imaginary line commencing where the Pacific Ocean and the northern boundary of San Diego County line meet; thence easterly and along said county line to a point twelve miles east of where U. S. Highway 395 and said county line intersect; thence southerly along an imaginary line to Lakeside on State Highway 67; thence northwesterly to the center of the community of Miramar on Interstate Highway 15; thence westerly to the junction of Miramar Road and Interstate Highway 5; thence west to the coast line of the Pacific Ocean; thence northerly along the coast line of the Pacific Ocean to the point of beginning.

(END OF APPENDIX C)

Issued by California Public Utilities Commission.

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