

ORIGINAL

Decision No. 84075

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
DELIVERY SERVICE COMPANY, INC.,
by JAMES H. RIGGS, Trustee, and
DEWEY C. WILSON and CARL E.
PETERSON, individuals, to sell and
transfer a certificate of public
convenience and necessity to D & I
DELIVERY SERVICE CO., a corporation.

Application No. 55356
(Filed December 3, 1974)

O P I N I O N

Delivery Service Company, Inc., by James H. Riggs, Trustee, requests authority to sell and transfer, and Dewey C. Wilson and Carl E. Peterson request authority to purchase and acquire, a certificate of public convenience and necessity authorizing operations as a highway common carrier of parcels and packages weighing 100 pounds or less between designated points and places in the San Francisco-East Bay area.

The certificate was granted by Decision No. 68451 dated January 12, 1965 in Application No. 46107.

On or about April 18, 1973, Delivery Service Company, Inc. was adjudged a bankrupt.

On or about June 13, 1973, the Bankruptcy Court issued a formal order authorizing James H. Riggs, Trustee, to sell at private sale the authority issued to Delivery Service Company, Inc.

James H. Riggs, Trustee, sold the operating authority to Dewey C. Wilson and Carl E. Peterson for the sum of \$500, who in turn assigned and transferred said authority to D & I Delivery Service Co., a California corporation. Messrs. Wilson and Peterson are officers and the principal shareholders of D & I Delivery Service Co.

D & I Delivery Service Co. presently holds and conducts operations as a highway carrier pursuant to a highway contract carrier permit and a radial highway common carrier permit.

After consideration the Commission finds that the transfer would not be adverse to the public interest and concludes that it should be authorized. We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by Delivery Service Company, Inc. and the issuance of a certificate in appendix form to D & I Delivery Service Co.

The Commission takes official notice that D & I Delivery Service Co. has filed Application No. 55270 on October 28, 1974, requesting authority to depart from the provisions of Minimum Rate Tariff 2 with respect to packages weighing less than 100 pounds.

In the event the transfer herein authorized is completed, Dewey C. Wilson, Carl E. Peterson, and D & I Delivery Service Co. are placed on notice that any transportation performed within the scope of the certificated authority shall be deemed to have been performed as a highway common carrier and in case of a conflict between the minimum rate deviation authority granted by Decision No. 84004, Application No. 55270 and the tariffs filed pursuant to General Order No. 80-Series, the latter shall prevail (Geijsbeek v PUC, 153 CA 2d 300).

D & I Delivery Service Co. is 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. 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 June 2, 1975, James H. Riggs, Trustee, may sell and transfer the operative rights referred to in the application to D & I Delivery Service Co.
2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.
3. Purchaser shall file with the Commission tariffs naming rates and rules governing the common carrier operations transferred. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than fives' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the transfer. 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-Series. Failure to comply with the provisions of General Order No. 80-Series may result in a cancellation of the operating authority granted by this decision.
4. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, a certificate of public convenience and necessity is granted to D & I Delivery Service Co., authorizing it to operate as a highway common carrier, as defined in Section 213 of the Public Utilities Code, between the points set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision No. 68451, as amended, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

6. Purchaser shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-Series.

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.

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

Dated at San Francisco, California, this 11th
day of FEBRUARY, 1975.

Vernon L. Sturgeon
President

William J. Givens, Jr.

Howard T. ...
Commissioners

D & I Delivery Service Co., 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 following transportation:

- A. Packages between Alameda, Oakland, Piedmont, Emeryville, Berkeley, Albany and El Cerrito.
- B. General commodities at wholesale between any two or more of the points described in subparagraph A above.
- C. Property between Alameda, Albany, Berkeley, El Cerrito, Emeryville, Oakland, Piedmont, and intermediate points, on the one hand, and, on the other hand, Alvarado, Antioch, Brentwood, Benicia, Castro Valley, Centerville, Clayton, Concord, Crockett, Danville, Decoto, Dublin, El Sobrante, Hayward, Irvington, Lafayette, Livermore, Martinez, Mission San Jose, Mt. Eden, Newark, Nichols, Miles, Oakley, Orinda, Pacheco, Pinole, Pittsburg, Pleasanton, Port Chicago, Richmond, Rodeo, San Leandro, San Lorenzo, San Pablo, Santa Rita, San Ramon, Sunol, Vallejo, Walnut Creek, Warm Springs, and intermediate points.

In performing the service herein authorized, carrier may make use of any and all streets, roads, highways and bridges necessary or convenient for the performance of said service.

RESTRICTIONS:

1. Applicant shall not use trucks of a larger rating than one ton.
2. Applicant shall not carry any package or parcel weighing more than one hundred pounds.

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3. Applicant shall not carry any package or parcel with a combined length and girth of more than one hundred sixty inches.
4. Applicant shall publish only a tariff for parcel delivery in which charges are made per parcel or package delivered.
5. Applicant shall not transport parcels or packages which have been sold at retail by a retail merchant, and transported from a retail store or retail store warehouse to residences of retail customers.

(END OF APPENDIX A)

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