

Decision No. 44441

CONFIDENTIAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
CAPITOL TANK LINE, INC., a California	:	
corporation, for authority to issue)	
its capital stock and its notes,	:	
and)	
Application of MORRIS ESACOVE and WALLY	:	Application
ESACOVE, co-partners doing business as)	No. 31507
CAPITOL TANK LINE, for authority to	:	
transfer assets to Capitol Tank Line, Inc.,)	
in exchange for its capital stock and notes.	:	
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O P I N I O N

This is an application for an order of the Commission authorizing Morris Esacove and Wally Esacove, partners doing business as Capitol Tank Line, hereinafter referred to as Sellers, to sell and transfer highway common carrier rights and properties to Capitol Tank Line, Inc., a corporation, and authorizing said corporation to issue its shares of stock and promissory notes as hereinafter set forth.

Sellers are engaged in business as highway common carriers for the transportation of petroleum products, as set forth in their certificate of public convenience and necessity heretofore obtained by them from the Commission, between points in California, and also are engaged in interstate commerce between points in California and points in Arizona. For the year 1949 they report operating revenues of \$618,908, with net income of \$123,992 before provision for income taxes. For the first three months of 1950 they report operating revenues of \$167,293, with net income of \$32,436 before provision for income taxes. In Exhibit B attached to the application, they

report their assets and liabilities as of March 31, 1950, as follows:

<u>Assets</u>		
Current assets -		
Cash	\$ 1,168.90	
Miscellaneous deposits	1,265.25	
Accounts receivable	35,017.31	
Materials and supplies	<u>5,888.80</u>	
Total current assets		\$ 43,340.26
Fixed assets -		
Cost	375,098.80	
Depreciation reserve	<u>89,683.52</u>	
Net fixed assets		285,415.28
Other assets		<u>18,845.19</u>
Total assets		<u>\$347,600.73</u>
<u>Liabilities and Net Worth</u>		
Current liabilities -		
Accounts payable	\$ 19,917.12	
Taxes payable	8,638.86	
Notes payable	<u>31,728.77</u>	
Total current liabilities		\$ 60,284.75
Installment obligations		<u>99,121.28</u>
Total liabilities		159,406.03
Net worth		<u>188,194.70</u>
Total		<u>\$347,600.73</u>

The application shows that Sellers desire to conduct their business under a corporate form of organization and to that end have caused the organization of Capitol Tank Lines, Inc. on or about March 27, 1950, with an authorized capital stock of 100 shares without par value, to take over their rights and properties and to continue their operations.

Sellers estimate that making allowance for profits and other changes occurring in the usual and normal course of business since the date of the balance sheet, the net worth of the business is approximately \$200,000. They propose to transfer their assets, subject to outstanding liabilities, to the corporation in consideration for the issue to them of all the authorized capital stock of the

corporation at a total stated value of \$75,000, and the issue of unsecured notes for the remainder of the estimated net worth, such notes to be payable in monthly installments of not to exceed \$1,000, with interest at the rate of 6% per annum.

The operative rights of the Sellers include a certificate of public convenience and necessity granted by this Commission by Decision No. 42623, dated March 15, 1949, as amended, in Application No. 29799, as well as a certificate granted by the Interstate Commerce Commission. The tangible property, according to Sellers' latest annual report, includes certain real estate and structures, 17 trucks and 17 trailers, together with miscellaneous shop, garage, office and other equipment.

The Commission has considered this application and is of the opinion that the proposed transfer will not be adverse to the public interest, and that accordingly an order should be entered at this time on applicants' requests. The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred. The corporation is hereby placed upon 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, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State, which is not in any respect limited to the number of rights which may be given.

O R D E R

The Commission having considered the above entitled matter and being of the opinion that a public hearing thereon is not necessary, that the application should be granted, as herein provided, that the money, property or labor to be procured or paid for through the issue of the stock and notes herein authorized is reasonably required for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Morris Esacove and Wally Esacove, after the effective date hereof and on or before October 31, 1950, may sell and transfer to Capitol Tank Line, Inc. their operative rights and properties, as set forth in this application, including the certificate of public convenience and necessity granted by Decision No. 42623, dated March 15, 1949, as amended, and Capitol Tank Line, Inc. may acquire such rights and properties and assume the payment of indebtedness outstanding as of the date of transfer.

2. Capitol Tank Line, Inc., after the effective date hereof and on or before October 31, 1950, in part payment for said rights and properties, may issue to Morris Esacove and Wally Esacove not exceeding 100 shares of its capital stock and not exceeding \$125,000 principal amount of its unsecured notes, payable in monthly installments of not to exceed \$1,000, with interest at the rate of 6% per annum.

3. Applicants shall comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A, by filing, in

triplicate, and concurrently making effective, appropriate tariffs and time tables on not less than five (5) days' notice to the Commission and to the public.

4. Capitol Tank Line, Inc. shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

5. The authority herein granted will become effective when Capitol Tank Line, Inc. has paid the fee prescribed by Section 57 of the Public Utilities Act, which fee is one hundred twenty-five (\$125.00) dollars.

Dated at San Francisco, California, this 27th day of June, 1950.

R. E. Dwyer

James F. Hill

Harold P. Kille

Commissioners

