

**ORIGINAL**

Decision No. 44600

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
P. R. McCUTCHEN and SUNSET OIL COMPANY )  
doing business as McCUTCHEN TRANSPORTA- )  
TION CO. to sell, and DESERT TRANSPORTA- )  
TION & EQUIPMENT CO., a California cor- )  
poration, to purchase, highway common )  
carrier motor truck operating rights )  
between Santa Maria, Delano, Bishop, )  
Los Angeles, Barstow, San Diego, and )  
Needles, California, and other points )  
in California. )

Application No. 31551

O P I N I O N

By this application, P. R. McCutchen and Sunset Oil Co., doing business as McCutchen Transportation Co., request permission to sell, and Desert Transportation & Equipment Co., a California corporation, seeks permission to purchase, the certificate of public convenience and necessity granted to P. R. McCutchen and Sunset Oil Co. by Decision No. 42623, dated March 15, 1949, in Application No. 29725, authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 2 3/4 of the Public Utilities Act, for the transportation of petroleum products, in bulk, except liquefied petroleum gases and any other petroleum products requiring pressurized tanks, and except liquid asphalt and hot road oils and any other petroleum products requiring insulated tanks, upon and along the following described routes, including all intermediate points, with the right to make lateral departures therefrom within a radius of fifty (50) miles of said routes:

1. U. S. 101 between Santa Maria and the California-Mexico Line;
2. U. S. 99 between Delano and the California-Mexico Line;
3. U. S. 395 between Bishop and San Diego;
4. U. S. 66 between Los Angeles and Needles;
5. U. S. 91 and 466 between Barstow and the Nevada-California State Line;
6. U. S. 60 between Los Angeles and the California-Arizona State Line.
7. U. S. 80 between San Diego and the California-Arizona State Line.

It is alleged in Application No. 31551 that the proposed purchaser, Desert Transportation & Equipment Co., operates as a contract carrier and as a radial highway common carrier for the transportation of general commodities between points in the State of California under permits issued to it by the Public Utilities Commission of the State of California. It is further alleged in the application that the proposed transfer is to be made for a consideration of ten (\$10) dollars, the reason for the transfer being that P. R. McCutchen and Sunset Oil Co., the partners doing business as McCutchen Transportation Company, are dissolving that partnership and are selling the partnership equipment. It is further alleged that the transfer will be consummated if and when the Commission approves the application for the transfer of operative rights.

The application alleges that Desert Transportation & Equipment Co. is a California corporation under the supervision and management of P. R. McCutchen; that P. R. McCutchen has been in the transportation business since 1920, operating all classes of

equipment throughout several western states, but principally in California; that in 1942 McCutchen organized the Desert Transportation Company and operated as P. R. McCutchen doing business as Desert Transportation Co.; that this company was incorporated as the Desert Transportation & Equipment Co. on July 1, 1948; that Sunset Oil Company no longer desires to be in the for hire transfer business; that the partners in the McCutchen Transportation Co. are dissolving the partnership and disposing of the company's equipment; and that the partners have verbally agreed to sell the operative rights of the applicant partnership to the applicant corporation for the sum of ten (\$10) dollars upon approval by the Commission. It appears from the application that Desert Transportation & Equipment Co. has adequate resources to carry on the operations now performed by McCutchen Transportation Co., pursuant to Decision No. 42623<sup>(1)</sup>, is experienced in the business of transporting merchandise, and has sufficient equipment to adequately render the public service it seeks authority to perform<sup>(2)</sup>.

The proposed transfer does not appear to be contrary to the public interest, and it is our conclusion that the authority sought should be granted. A public hearing is not necessary. Such authority shall not be construed to be a finding of the value of the operative rights herein authorized to be transferred.

Desert Transportation & Equipment Co., a 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

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(1) See Exhibit "C" attached to Application No. 31551.  
(2) See Exhibit "E" attached to Application No. 31551.

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

Application therefor having been filed and considered, the Commission now being fully advised and finding that the proposed transfer of said operative right is not contrary to the public interest,

IT IS HEREBY ORDERED:

(1) That P. R. McCutchen and Sunset Oil Company, doing business as McCutchen Transportation Co. be, and they hereby are, authorized to sell and transfer to Desert Transportation & Equipment Co., a corporation, for the sum of ten (\$10) dollars, the certificate of public convenience and necessity acquired by Decision No. 42623, dated March 15, 1949, on Application No. 29725, and said Desert Transportation & Equipment Co., a corporation, be, and it hereby is, authorized to purchase and acquire said certificate for said sum of ten (\$10) dollars.

(2) That, within thirty (30) days after the consummation of the transfer herein authorized, Desert Transportation & Equipment Co., a corporation, shall notify the Commission thereof in writing, and shall file with the Commission a true copy of any instrument

which may be executed to effect said transfer.

(3) That, within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission and the public, Desert Transportation & Equipment Co., a corporation, 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 satisfactory to the Commission.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at Los Angeles, California, this 1<sup>st</sup> day of August, 1950.

Justice J. Cooney  
James H. Powell  
Harold H. Kuhl  
Kenneth Patten  
COMMISSIONERS