

ORIGINAL

Decision No. 45424

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 HARBOR REFINING COMPANY, a co-)
 partnership, consisting of HAROLD C.)
 MORTON, H. S. KOHLBUSH, CHESTER F.)
 DOLLEY, LYNN MORTON and RICHARD K.)
 JAMISON, for the transfer of the) Application No. 32072
 certificate of public convenience and)
 necessity granted and authorized by)
 the Public Utilities Commission of the)
 State of California, Application No.)
 31211, on October 17, 1950.)

O P I N I O N

By Paragraph A (1) of the order of Decision No. 44913, dated October 17, 1950, on Application No. 31211, Harold C. Morton, H. A. McOwen, H. S. Kohlbush, and Chester F. Dolley, copartners, doing business as Harbor Refining and Transportation Co., were granted a certificate of public convenience and necessity authorizing them to establish and operate a service as a petroleum irregular route carrier as defined in Section 2-3/4 of the Public Utilities Act. By Paragraph B (1) of the order of that decision, Harold C. Morton, H. A. McOwen, H. S. Kohlbush, and Chester F. Dolley, were authorized to sell and transfer to Harold C. Morton, H. A. McOwen, H. S. Kohlbush, Chester F. Dolley, Lynn Morton, Richard K. Jamison, Sherwood A. McOwen, and Howard R. McOwen, copartners, doing business as Harbor Refining Company, the certificate of public convenience and necessity granted by Paragraph A (1) of the order of that decision.

The application herein alleges that all matters required by the Commission to effect the transfer authorized by Paragraph B (1) of the order of Decision No. 44913 were done by the members of the partnership, and that, on November 10, 1950, Harold C. Morton, H. A. McOwen, H. S. Kohlbush, Chester F. Dolley, Lynn Morton, Richard K. Jamison, Sherwood A. McOwen, and Howard R. McOwen, partners, doing business as Harbor Refining Company, dissolved the partnership and executed a bill of sale transferring to Harold C. Morton, H. S. Kohlbush, Chester F. Dolley, Lynn Morton and Richard K. Jamison, the certificate of public convenience and necessity granted by Paragraph A (1) of the order of Decision No. 44913. A copy of this bill of sale is attached to the application herein as Exhibit "A", bears the signatures of the eight individuals authorized by Decision No. 44913 to acquire the certificate of public convenience and necessity granted by Paragraph A (1) of the order of that decision, and recites that H. A. McOwen, Sherwood A. McOwen, and Howard R. McOwen have withdrawn from the partnership and sold their interests to the remaining parties. No consideration is specified.

It is alleged in the application herein that, with the exception of the three withdrawing partners, the remaining partnership, the automotive equipment, the financial statement, and the operations are identical with those of the former partnership.

The applicants request that the Commission authorize the transfer of the certificate of public convenience and

necessity, granted by Decision No. 44913 to Harold C. Morton, H. A. McOwen, H. S. Kohlbush, Chester F. Dolley, Lynn Morton, Richard K. Jamison, Sherwood A. McOwen, and Howard R. McOwen, partners, doing business as Harbor Refining Company, to Harold C. Morton, H. S. Kohlbush, Chester F. Dolley, Lynn Morton, and Richard K. Jamison, partners, doing business as Harbor Refining Company.

The transfer described herein does not appear to be contrary to public interest, and the Commission is of the opinion that the authority sought should be granted. A public hearing is not necessary. The action taken herein shall not be construed to be a finding of value of the property herein authorized to be transferred.

Harold C. Morton, H. S. Kohlbush, Chester F. Dolley, Lynn Morton, and Richard K. Jamison, are, and each of them is, 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. This monopoly feature may be changed or destroyed at any time by the state, which is not in any respect limited in 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 Harold C. Morton, H. A. McOwen, H. S. Kohlbush, Chester F. Dolley, Lynn Morton, Richard K. Jamison, Sherwood A. McOwen, and Howard R. McOwen, copartners, doing business as Harbor Refining Company, be, and they hereby are, authorized to sell and transfer to Harold C. Morton, H. S. Kohlbush, Chester F. Dolley, Lynn Morton, and Richard K. Jamison, the certificate of public convenience and necessity granted by Decision No. 44913, dated October 17, 1950, and said Harold C. Morton, H. S. Kohlbush, Chester F. Dolley, Lynn Morton, and Richard K. Jamison, be, and they hereby are, authorized to purchase and acquire said certificate.

(2) That, within thirty (30) days after the effective date of this order, Harold C. Morton, H. S. Kohlbush, Chester F. Dolley, Lynn Morton, and Richard K. Jamison, shall notify the Commission, in writing, of the consummation of said transfer, and shall file with the Commission a true copy of any instrument, other than the bill of sale, a copy of which is attached to the application as Exhibit "A", 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, Harold C. Morton, H. S. Kohlbush, Chester F. Dolley, Lynn Morton, and Richard K. Jamison, 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, tariffs and time schedules satisfactory to the Commission.

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

Dated at San Francisco, California, this 6th day of March, 1951.

R. E. Anderson
Justin F. Casper
Harold P. Hule
Samuel P. Potter
John E. Mitchell
COMMISSIONERS