

Decision No. 46106**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)	
V. B. MORGAN, an individual doing)	
business under the firm name and)	
style of V. B. MORGAN CO., for)	Application No. 32543
authority to transfer certain)	
operating rights to V. B. MORGAN)	
and H. R. TEMPLE, a copartnership,)	
doing business as V. B. MORGAN CO.)	

O P I N I O N

V. B. Morgan, doing business as V. B. Morgan Co., owns operating rights as a petroleum irregular route carrier, as defined in Section 2-3/4 of the Public Utilities Act, under authority of this Commission ⁽¹⁾. In the present application V. B. Morgan requests authority to sell to a partnership, comprised of H. R. Temple and himself, said operating rights as well as all equipment and other assets used in his said business of transporting petroleum and petroleum products in tank trucks and trailers, between points and places in the State of California. Mr. Temple joins in said application.

As justification for such request, applicants allege that Mr. Morgan was desirous of obtaining the services of a good general manager by reason of the fact that it was necessary for him to absent himself a considerable part of the time from the base of his operations, namely, Tecopa, California.

(1) Decision No. 44539, dated July 18, 1950, on Application No. 30956.

In order to adequately compensate the man he selected for the job, applicant Temple, he decided to sell Mr. Temple 30 per cent in the partnership to be formed. The partnership, it is proposed, will be vested with all the operating rights and assets heretofore referred to.

According to the terms of the partnership agreement, applicant Morgan has transferred assets consisting of personal property valued at \$55,908.06. The 30 per cent interest is to be acquired by applicant Temple who is to execute and deliver a promissory note in the sum of \$16,772.42, payable to applicant Morgan in yearly instalments over an eight-year period. The yearly instalments of \$2,096.55 are payable from applicant Temple's share of the profits of the partnership. Said profits are to be computed after a monthly salary of \$500 has been paid to Mr. Temple, and a salary of \$750 has been paid to Mr. Morgan.

After full consideration of this application, we are of the opinion, and find as a fact, that the proposed transaction will not be adverse to the public interest, and that the request of applicants should be granted. A public hearing is not necessary.

In making the order herein we are making no finding of the value of said operative rights to be transferred to the partnership, and we hereby place applicants upon notice that operating 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. 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 as above entitled having been made, the Commission being fully advised in the premises, and it appearing that a public hearing is unnecessary,

IT IS ORDERED:

(1) That V. B. Morgan, doing business as V. B. Morgan Co., after the effective date of this order, and on or before November 15, 1951, may sell and transfer, and V. B. Morgan and H. R. Temple, a copartnership, doing business as V. B. Morgan Co., may acquire the assets and operating rights as a petroleum irregular route carrier pursuant to the Articles of Copartnership of V. B. Morgan Co., dated October 31, 1950, copy of which was furnished to the Commission by applicant H. R. Temple by letter dated July 31, 1951, and received by the Commission on August 6, 1951.

(2) That, within thirty (30) days after the consummation of the transfer herein authorized, said V. B. Morgan and H. R. Temple shall notify the Commission of that fact, and shall, within said period, file with the Commission a true copy of any bill of sale or other instrument of transfer which may have been executed to effect said transfer.

(3) That, within sixty (60) days after the effective date hereof and on not less than five (5) days' notice to the Commission and the public, 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 schedules.

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

Dated at San Francisco, California, this 20th day of August, 1951.

A. J. [Signature]
Justice J. [Signature]
Harold F. [Signature]
John E. [Signature]
Harold [Signature]
COMMISSIONERS