

ORIGINAL

Decision No. 46151

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
ROY WELSH and ROGER TITTLE doing)
business as R & R BUTANE and PROPANE)
COMPANY to sell and of ROGER TITTLE)
doing business as R & R BUTANE and)
PROPANE COMPANY to purchase that certain)
BUTANE & PROPANE business located at)
Corcoran, California and that certain)
Certificate of Public Convenience and)
Necessity as a petroleum irregular route)
carrier heretofore issued to sellers.)
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:

Application
No. 32576
(and Amendment)

O P I N I O N

By Decision No. 44252, dated May 26, 1950, the Commission granted to Roy Welsh and Roger Tittle, doing business as R & R Butane and Propane Company, applicants herein, a certificate of public convenience and necessity authorizing the establishment and operation of a service as a petroleum irregular route carrier for the transportation of petroleum and petroleum products in tank trucks and tank trailers between all points in the State of California. Applicants now report that they have entered into an agreement looking toward the dissolution of the partnership and the transfer by Roy Welsh to Roger Tittle of his partnership interest. They have asked the Commission to authorize the transfer and the execution of indebtedness.

The application shows that the partnership properties include the certificate of public convenience and necessity and 14 units of automotive equipment, together with tanks, pumps, meters, and other equipment and supplies. Under the terms of the agreement, the continuing partner will pay \$18,587.47 for the equipment and tangible property and \$1.00 for the operative rights, and will assume

and agree to pay the debts and obligations of the partnership. The sum of \$6,000 in cash will be paid for the equipment and tangible property, and the balance of \$12,587.47 will be payable in installments of not less than \$400 per month at the outset, such payments to be increased at a later date to not less than \$600 a month, with interest at the rate of 6% per annum, the unpaid balance and interest to be secured by a deed of trust and a second mortgage of chattels. In addition, Roger Tittle has borrowed \$10,000 from the First National Bank in Corcoran, in connection with this transaction, which is represented by a note and mortgage of chattels payable in monthly installments of \$582.32.

The Commission has considered this matter and is of the opinion that the proposed transfer will not be adverse to the public interest. Applicants are 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.

The action taken herein shall not be construed to be a finding of the value of the properties herein authorized to be transferred.

ORDER

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 execution of the indebtedness herein authorized is reasonably required by Roger Tittle 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. Roy Welsh, after the effective date hereof and on or before December 31, 1951, may transfer to Roger Tittle his partnership interest in the operative rights and properties to which reference is made herein, such transfer to be made in accordance with the terms of the agreement by and between said Roy Welsh and Roger Tittle, dated May 1, 1951, (which agreement applicants are authorized to execute.)

2. Roger Tittle, after the effective date hereof and on or before December 31, 1951, may issue a note and mortgage of chattels in the principal amount of not exceeding \$10,000.00, and may execute a deed of trust and a second mortgage of chattels to secure the payment of the unpaid balance of \$12,587.47 to which reference is made in this proceeding, which note, deed of trust and mortgages of chattels shall be in, or substantially in, the same form as those filed with the amendment to the application herein.

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 one (1) day's notice to the Commission and to the public.

4. The authority herein granted will become effective when Roger Tittle has paid the minimum fee prescribed by Section 57

of the Public Utilities Act, which fee is twenty-five (\$25.00) dollars.

Dated at San Francisco, California, this 4th day of September, 1951.

R. J. [Signature]
President
Justin Z. [Signature]
Harold A. [Signature]
[Signature]
[Signature]
Commissioners

