

ORIGINAL

Decision No. 47391

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 :
 (a) Mrs. Hannah Graham Smith)
 doing business as)
 SMITH TANK LINE)
 :
 to sell, and)
 :
 SMITH TANK LINE)
 (A California Corporation))
 :
 to purchase petroleum irregular route)
 common carrier rights between points)
 in the State of California, and)
 :
 (b) SMITH TANK LINE)
 :
 to issue stock.)
 -----)

Application
No. 33140

O P I N I O N

This application shows that Mrs. Hannah Graham Smith, doing business as Smith Tank Line, has been operating as a petroleum irregular route carrier in California pursuant to authority granted by Decision No. 44398, dated June 20, 1950, that she desires to retire from such operations, and that she has made arrangements and now seeks authorization to transfer her rights and properties to Smith Tank Line, a corporation which has been organized to take over the operations and to continue the service. The consideration to be paid is the sum of \$95,000.

The properties to be transferred include the certificate of public convenience and necessity and 11 trucks with 11 trailers. The original cost of said properties is stated at \$165,241.40. The present value is said to be in excess of the purchase price.

The application shows that the purchaser will make a down payment of \$5,000 on account of the purchase price and will execute a conditional sale contract for the unpaid balance, which contract will include the remaining \$90,000 of the purchase price plus a time price differential of \$9,449.90, being calculated at the rate of 3½% over a period of 36 months. The total amount of the contract, that is, \$99,449.90, will be payable in 2 consecutive monthly installments of \$2,000 each and 34 consecutive monthly installments of \$2,807.35.

The corporation also asks authorization to issue and sell 500 shares of its common stock of the aggregate par value of \$5,000 for the purpose of obtaining funds to be used in the conduct of the business. The shares of stock will be sold to Gerald D. Gurley, Gerald M. Stone and Samuel Stone. These individuals, according to the application, have been engaged in the truck transportation business for many years in Los Angeles and should be in a position to continue the operations of the carrier without interfering with the service to the public. They 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 as to the number of rights which may be given.

ORDER

The Commission having considered the above entitled matter, and being of the opinion that a public hearing thereon is not

necessary; that the transfer will not be adverse to the public interest; that the money, property or labor to be procured or paid for by the execution of the conditional sale contract and the issue of the stock herein authorized is reasonably required for the purposes specified herein; and that such purposes, except as otherwise stated in the case of said contract, are not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore, ✓

IT IS HEREBY ORDERED as follows:

1. Mrs. Hannah Graham Smith, after the effective date hereof and on or before August 31, 1952, may transfer the operative rights and properties referred to in this proceeding to Smith Tank Line, a corporation, and said corporation, in acquiring the same, may assume the payment of outstanding indebtedness and may execute a conditional sale contract providing for deferred payments of \$99,449.90, as set forth in Exhibit F filed in this proceeding.
2. Smith Tank Line, a corporation, after the effective date hereof and on or before August 31, 1952, may issue and sell not exceeding 500 shares of its capital stock at not less than the par value thereof, and use the proceeds to provide working capital to maintain and improve the service and facilities.
3. The action taken herein shall not be construed to be a finding of the value of the rights and properties herein authorized to be transferred.
4. On not less than five (5) days' notice to the Commission and to the public, Smith Tank Line, a corporation, shall comply with the provisions of General Order No. 80 and Part 14 of General Order No. 99, by filing, in triplicate, and concurrently making effective,

appropriate tariffs and time tables.

5. Smith Tank Line, a corporation, shall file with the Commission monthly reports as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

6. The authority herein granted will become effective when Smith Tank Line, a corporation, has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is one hundred (\$100.00) dollars.

Dated at San Francisco, California, this 5th day of May, 1952.

R. J. Inman
President

James J. Casper
Harold A. Huls

Genevieve Pottier
John L. Mitchell
Commissioners

