

ORIGINALDecision No. 47125

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of CLARK E. SEARGEANT, AUDREY L.)
SEARGEANT, and ROGER E. SEARGEANT,)
a co-partnership, doing business)
as SEARGEANT TRANSPORTATION COMPANY,)
to sell, and SYSTEM TANK LINES, INC.,)
a corporation, and SYSTEM TRUCK)
SERVICE, INC., a corporation, to)
buy, operating rights and equipment.)

Application No. 33274

O P I N I O N

Clark E. Seargeant, Audrey L. Seargeant, and Roger E. Seargeant, a copartnership, doing business as Seargeant Transportation Company, seek authority herein to transfer to System Tank Lines, Inc. the name Seargeant Transportation Company and the good will attached to said business, and such rights as a highway common carrier as the seller may have pursuant to Decision No. 42623, dated March 15, 1949, on Application No. 29472, and such operative rights as a petroleum irregular route carrier as the seller may have pursuant to Decision No. 44367, dated June 20, 1950, on Application No. 31072. The consideration for this transfer is \$5,000, and an agreement of sale entered into by the seller and the System Tank Lines, Inc. on the 27th day of March, 1952, is attached to the application, marked Exhibit A.

It is also proposed to transfer all of the automotive equipment now owned by Seargeant, and listed in Exhibit B

attached to the application, to System Truck Service, Inc., for the sum of \$295,000. The agreement covering the sale of this automotive equipment was entered into on March 27, 1952, between the seller and System Truck Service, Inc.

It is alleged that the \$5,000 consideration for the operating rights, good will and name, has been paid, and the consideration for the automotive equipment of \$295,000 shall be payable as follows: \$5,000 at the time of executing the agreement of sale, \$240,000 five days subsequent to the approval of this sale by the Public Utilities Commission, and the balance of \$50,000 to be made in monthly instalments of \$1,000 per month, commencing on May 1, 1952, or on the first day of the first month subsequent to the approval of the Public Utilities Commission.

The application alleges that the seller desires to retire entirely from the business of transportation of petroleum and petroleum products in bulk. It further alleges that System Tank Lines, Inc. presently conducts operations in interstate and intrastate commerce in the transportation of petroleum and petroleum products in bulk, and that the acquisition of the operating rights, good will and name of Seargeant would complement its present activities. It further alleges that the System Truck Service, Inc. is an affiliated corporation to System Tank Lines, Inc., and owns and operates automotive equipment. The automotive equipment here proposed to be sold would be used in the conduct of the business of System Tank Lines, Inc.

After a full consideration of this matter we hereby find that Clark E. Seargeant, Audrey L. Seargeant, and

Roger E. Seargeant, doing business as Seargeant Transportation Company, should be permitted to transfer the operative rights, good will and name, herein described, to System Tank Lines, Inc., and the automotive equipment herein described to System Truck Service, Inc. A public hearing is not necessary.

In authorizing this transfer we are making no finding of value of the operative rights and hereby place the transferee upon notice that operative rights, as such, do not constitute a class of property which may be 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.

O R D E R

Application as above entitled having been made, the Commission being fully advised in the premises and hereby finding it not to be adverse to the public interest,

IT IS ORDERED:

(1) That Clark E. Seargeant, Audrey L. Seargeant, and Roger E. Seargeant, a copartnership, doing business as Seargeant Transportation Company, after the effective date hereof, may transfer to System Tank Lines, Inc., a corporation,

the good will and name hereinabove described, and the certificate of public convenience and necessity to operate as a highway common carrier granted by Decision No. 42623, dated March 15, 1949, on Application No. 29472, and the certificate of public convenience and necessity to operate as a petroleum irregular route carrier granted by Decision No. 44367, dated June 20, 1950, on Application No. 31072, for the sum of five thousand dollars (\$5,000), and to transfer to the System Truck Service, Inc. the automotive equipment herein described for the sum of two hundred ninety-five thousand dollars (\$295,000).

(2) That System Tank Lines, Inc., should this transfer be effected, shall file in triplicate and concurrently make effective tariffs and time schedules satisfactory to the Commission.

(3) That System Tank Lines, Inc., within thirty (30) days after making the transfer hereinabove authorized, shall file with the Commission a statement showing the journal entries used to record on its books the purchase of the operating authorities and the property herein authorized to be transferred.

(4) The action taken herein shall not be construed to be a finding of value of the property herein authorized to be transferred.

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

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

[Signature]
 President

[Signature]
[Signature]

[Signature]
[Signature]
 Commissioners