

ORIGINAL

Decision No. 47551

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of Clifford P. Hornbeck, an individual, to sell, and Refiner's Sales Company, a California Corporation, to buy, the certificate of a petroleum irregular route carrier, and also equipment, between all points in the State of California.

Application
No. 33616

O P I N I O N

Clifford P. Hornbeck, applicant in this proceeding, is a petroleum irregular route carrier operating in the State of California under a certificate of public convenience and necessity granted him by Decision No. 44403, dated June 20, 1950. ⁽¹⁾ In this application he reports that he desires to retire from his operations and that he has made arrangements and now seeks authorization to transfer his operative rights and properties to Refiner's Sales Company, a corporation. The agreed purchase price is the sum of \$4,250, of which \$4,000 has been allocated to the equipment, which consists of a tank truck and a tank trailer, and \$250.00 has been allocated to the operative rights.

The application shows that Refiner's Sales Company was organized on July 29, 1947, and that it has been, and is, engaged in certain sales activities. In financial statements attached to the application it reports its total investment in its assets at \$140,480.39, as of June 30, 1952, which it has paid or provided

(1) For 1951, applicant Hornbeck reported operating revenues of \$3,588.77 and net operating income of \$2,151.22, before provision for taxes on income.

with borrowed funds and with equity capital aggregating \$72,319. For the first six months of 1952, the corporation reported gross sales of \$1,115,955.79 with a net profit of \$30,121.24, after deducting cost of sales and operating expenses.

A review of the application indicates that the purchaser is equipped to finance and conduct the operations of Clifford P. Hornbeck and that the proposed transfer will not be adverse to the public interest. Refiner's Sales Company is 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. 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.

ORDER

The Commission having considered the above entitled matter and being of the opinion that a public hearing is not necessary and that the application should be granted as herein provided; therefore,

IT IS HEREBY ORDERED as follows:

1. Clifford P. Hornbeck, after the effective date hereof and on or before December 31, 1952, may transfer his operative rights and properties to Refiner's Sales Company under the terms and conditions set forth in this application.

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

3. After the effective date hereof and on not less than 5 day's notice to the Commission and to the public, applicants shall file with the Commission the appropriate tariffs and time tables in triplicate, and concurrently make them effective.

4. This order will become effective twenty (20) days after the date hereof.

Dated at San Francisco, California, this 11th day of August, 1952.

R. Z. [Signature]
President
James J. [Signature]
Harold [Signature]
Fenneth [Signature]
Edw. E. [Signature]
Commissioners