

ORIGINAL

Decision No. 47683

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of BURNELL H. RICHARDS,)
 doing business as B. H. RICHARDS)
 TRUCKING, to sell, transfer, lease,)
 or assign Petroleum Irregular Route)
 Carrier Certificate to FRANK G. SILVA)
 and BYRON EAMES, a co-partnership,)
 doing business as RICHARDS TRUCKING)
 COMPANY, as provided for under)
 Sections 1063 and 1904 (a) of the)
 Public Utilities Code.)
 -----)

Application
No. 33692

O P I N I O N

This application shows that Burnell H. Richards, doing business as B. H. Richards Trucking, is a petroleum irregular route carrier operating in the State of California under a certificate of public convenience and necessity granted by Decision No. 44766, dated September 11, 1950, in Application No. 31149. He reports that he desires to retire from his operations and that he now seeks authorization to transfer his operative rights, together with twelve units of equipment, free and clear of liens and encumbrances, to Frank G. Silva and Byron Eames.

The consideration for the transfer of the rights and properties is the sum of \$45,000, to be represented by a note payable in installments of \$1,500 a month including interest at 6% per annum, and secured by a chattel mortgage of the tangible assets.

The application shows that the purchasers have been employed by applicant Richards for five years and have been engaged in his transportation operations. It appears to us that the proposed transfer will not be adverse to the public interest and that we are warranted in making an order granting this application.

In making this order we wish to place applicants 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 is not necessary and that the application should be granted, as herein provided; therefore,

IT IS HEREBY ORDERED as follows:

1. Burnell E. Richards, doing business as B. E. Richards Trucking, after the effective date hereof and on or before December 31, 1952, may transfer the operative rights granted him by Decision No. 44766, dated September 11, 1950, and his operative property, to Frank G. Silva and Byron Eames under the terms and conditions set forth in this application. Frank G. Silva and Byron Eames, in acquiring said rights and property, may execute a chattel mortgage and issue a note in the principal amount of \$45,000, it being the opinion of the Commission that the money, property or labor to be procured or paid for by the issue of said note is reasonably required by applicants Silva and Eames for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable

to operating expenses or to income.

2. 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.

3. After the effective date hereof and on not less than five (5) days' notice to the Commission and to the public, purchasers shall file, in triplicate, and concurrently make effective, appropriate tariffs and time tables.

4. Frank G. Silva and Byron Eames shall file with the Commission a copy of the chattel mortgage and a copy of the note executed under the authority herein granted, such filings to be made within thirty (30) days after the dates of such instruments.

5. The authority herein granted will become effective when Frank G. Silva and Byron Eames have paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is forty-five (\$45.00) dollars.

Dated at San Francisco, California, this 16th day of September, 1952.

R. J. [Signature]
President

Justus J. Casper

Harold H. [Signature]

[Signature]

Commissioners

