

ORIGINALDecision No. 50005

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application
of LA VERNE S. CASTLE, an individ-
ual, to sell, and ASPHALT SERVICE
CO., a corporation, to purchase a
petroleum irregular route carrier
certificate to serve between all
points in California.

Application No. 35321

O P I N I O N

By the above-entitled joint application authority is sought for the sale and transfer of a petroleum irregular route certificate.

Applicant La Verne S. Castle holds a certificate of public convenience and necessity authorizing the operation of a service as a petroleum irregular route carrier as defined in Section 214 of the Public Utilities Code, for the transportation of petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California. (1)
It is alleged in the application that he is now and has been conducting operations under said certificate.

Applicant Asphalt Service Company is a California corporation not presently operating as a "for-hire" carrier but allegedly experienced in the transportation of petroleum in tank trucks.

(1) Decision No. 44625, dated August 8, 1950, on Application No. 31147.

Applicant La Verne S. Castle proposes to sell, and applicant Asphalt Service Co. proposes to buy the operating right of seller referred to above pursuant to an oral agreement whereby seller is to receive from buyer the sum of \$1,250.00 cash within 30 days after the effective date of the Commission's order authorizing the transfer. No equipment or other physical property is involved in the transfer herein proposed.

The reasons for the transaction are that seller wishes to discontinue his operations as a petroleum irregular route carrier and to operate as a general commodity freight carrier under proper intrastate operating authority. The buyer has the necessary equipment (Exhibit D on application) and finances (Exhibit C on application) to continue the seller's services. It appears from the application that the buyer has the experience necessary to a successful operation.

The Commission has considered this matter and is of the opinion and finds that the proposed transfer will not be adverse to the public interest. A public hearing is not necessary. The action taken herein shall not be construed to be a finding of value of the property herein authorized to be transferred.

Asphalt Service Co., a corporation, 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.

O R D E R

Application having been made and the Commission being fully advised in the premises and having found that the proposed transfer is not adverse to the public interest,

IT IS ORDERED:

- (1) That within thirty days after the effective date hereof, La Verne S. Castle may sell and transfer his operative rights created by Decision No. 44625, dated August 8, 1950, on Application No. 31147 to Asphalt Service Co., a corporation, such sale and transfer to be for cash payable on or before thirty days from the effective date of this order.
- (2) That within thirty days after the consummation of the transfer herein authorized, Asphalt Service Co., a corporation, shall notify this Commission in writing of that fact.
- (3) That within sixty days after the effective date hereof, and on not less than five days' notice to the Commission and to the public, applicants shall supplement or reissue the tariffs on file with this Commission naming rates, rules, regulations and schedules governing the common carrier operations here involved to show that La Verne S. Castle has withdrawn or cancelled and Asphalt Service Co., a corporation, has adopted

or established as its own said rates, rules, regulations and schedules.

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

Dated at San Francisco, California, this 4th day of May, 1954.

John E. Mitchell
President

Justus F. Caswell

Bennett Pottel

Deane Poggins

Commissioners