

ORIGINALDecision No. 50110

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 ARIZONA-PACIFIC TANK LINES, a corpor-)
 ation, to purchase, and of MERCURY)
 TRANSPORT COMPANY, a corporation, to)
 sell a certificate of public conven-)
 ience and necessity authorizing the)
 transportation of bulk petroleum)
 products via irregular routes, pursuant)
 to Sections 851-853 of the Public)
 Utilities Code.)

Application No. 35431

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 Mercury Transport Company, a corporation, 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 it is conducting operations pursuant to said certificate.

Applicant Arizona-Pacific Tank Lines is an Arizona corporation qualified to do business in California as a foreign corporation. It is alleged in the application that it transports various commodities in bulk in tank vehicles between points and

(1) Decision No. 44467, dated June 27, 1950, on Application No. 30893.

places in Arizona pursuant to a certificate of public convenience and necessity issued by the Interstate Commerce Commission, and, in addition, transports property for hire in intrastate commerce between points and places in California pursuant to permits (2) issued by this Commission.

Applicant Mercury Transport Company proposes to sell, and applicant Arizona-Pacific Tank Lines 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 \$500 cash payable upon approval by this Commission of the proposed transfer. No equipment or property other than the operating right is involved.

The alleged reasons for the proposed transaction are that the owner of all the outstanding stock of the seller corporation desires to liquidate that company's assets and withdraw from the active management of the corporation, and the buyer desires to enter the field of intrastate transportation of petroleum and petroleum products in bulk. The application alleges that the buyer has had many years of experience in the transportation of property for hire, particularly commodities transported in bulk, in tank vehicles.

It appears from the application that the buyer has the necessary equipment (Exhibit D on application), finances (Exhibit B on application), and experience to enable it to continue the seller's operations.

(2) The Commission's records show it has radial highway common, highway contract and city carrier permits issued by this Commission.

The Commission has considered the 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.

Arizona-Pacific Tank Lines, 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, 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 Mercury Transport Company, a corporation, may sell and transfer its operative rights created by Decision No. 44467, dated June 27, 1950, on Application No. 30893, to Arizona-Pacific Tank Lines, a corporation, such sale and transfer to be for the sum of \$500 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, Arizona-Pacific Tank Lines, 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 operation here involved, and show that Mercury Transport Company, a corporation, has withdrawn or cancelled, and Arizona-Pacific Tank Lines, 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 1st day of June, 1954.

Edward E. Mitchell
President

Justus D. Calver

Kenneth Potts

Verne Higgins

Commissioners