

ORIGINALDecision No. 50911

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 OILFIELDS TRUCKING COMPANY, a corpo-)
 ration, to sell, and FLOYD G. POWERS)
 and RAYMOND L. SMITH, copartners,)
 doing business as AIRWAY TRUCKING) Application No. 35869
 COMPANY, to purchase highway common)
 carrier operating rights for the)
 transportation of oilfield equipment.)

Phil Jacobson, for Oilfields Trucking Company,
 applicant.

Poe & McWhinney, for Airway Trucking Company,
 applicant.

Glanz & Russell, by Arthur Glanz, for Crail
 Transportation Co., Lacey Trucking Company,
 Daigh & Stewart Truck Company, Rush Swoape
 Trucking Co., Inc., D. A. Brown Trucking Co.,
 Carl Ingalls Trucking Company, protestants.

O P I N I O N

An order is sought authorizing Floyd G. Powers and
 Raymond L. Smith, copartners, to purchase, and Oilfields Trucking
 Company to sell, the operative rights acquired by Decision
 No. 44262, dated May 26, 1950, in Application No. 30691. Such
 decision authorized transportation of certain commodities originating
 at or destined to an oil well site or originating at or destined to
 a storage yard and in minimum shipments of 10,000 pounds.

A public hearing was held at Los Angeles on December 1,
 1954 before Examiner Carl Silverhart.

Protestants opposed the granting of the application
 basing their position solely upon the contention that applicant
 Oilfields Trucking Company had on and after January 6, 1954,
 abandoned the operative right; through nonuse, for which authority
 to transfer is herein sought.

Protestants did not testify or call any witnesses in their behalf.

The hearing was devoted almost entirely to the examination and cross-examination of two officers of Oilfields Trucking Company.

From the evidence of record it appears:

1. That Oilfields Trucking Company did not on January 6, 1954, or at any time subsequent thereto, abandon the service authorized by Decision No. 44262, dated May 26, 1950.

2. That Oilfields Trucking Company on January 6, 1954, rendered and thereafter continued to render, service pursuant to said Decision No. 44262.

3. That Oilfields Trucking Company also possesses operating rights as a highway common carrier for the transportation of petroleum products and is a petroleum irregular route carrier; that it proposes to discontinue the transportation of oilfield equipment and to devote its full time and effort to the transportation of petroleum products in bulk, in tank vehicles, and to other businesses conducted by it.

4. That an agreement of sale dated August 27, 1954, marked Exhibit A, provides that the seller is to transfer the above-described operative right for the sum of \$5,000 payable concurrently with the consummation of the transfer, if approved by the Commission.

5. That Floyd G. Powers and Raymond L. Smith are engaged in the transportation of property in southern California pursuant to city carrier, highway contract carrier and radial highway common carrier permits.

6. That the said Powers and Smith possess adequate financial resources and sufficient equipment to render service under the certificate here involved.

Under these circumstances we find that the public interest will not be adversely affected by approval of the proposed transfer. The application will be granted. In so doing we make no finding as to the value of such operative right.

Floyd G. Powers and Raymond L. Smith, copartners, are 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 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.

O R D E R

A public hearing having been held and based upon the evidence therein adduced,

IT IS ORDERED:

(1) That Oilfields Trucking Company, after the effective date hereof and on or before March 1, 1955, may sell and transfer to Floyd G. Powers and Raymond L. Smith, the operative right acquired under authority of Decision No. 44262, dated May 26, 1950, and the latter may acquire and thereafter operate the same, such sale and transfer to be in accordance with the terms of the agreement dated August 27, 1954, attached to the application as Exhibit A.

(2) That, within thirty days after completion of the transfer herein authorized, Floyd G. Powers and Raymond L. Smith shall so notify the Commission, in writing, and within said period

shall file with it true copies of the instruments executed to effect such transfer.

(3) That, within ninety days after the effective date hereof, and on not less than five days' notice to the Commission and to the public, applicants shall amend tariffs on file with the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that Oilfields Trucking Company has withdrawn and Floyd G. Powers and Raymond L. Smith have adopted as their own said rates, rules and regulations.

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

Dated at San Francisco, California, this 28th day of December, 1954.

John E. Mitchell
President
Matthew J. Calverly
Samuel D. Patten
Raymond L. Smith

Commissioners

Commissioner Verno Scoggins, being necessarily absent, did not participate in the disposition of this proceeding.