

Decision No. 51474**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of )  
 Donald F. Campbell and Frank E. )  
 O'Connors to sell and Morris Esacove, )  
 doing business as STATEWIDE TANK ) Application No. 36589  
 LINES, to buy petroleum irregular )  
 route common carrier rights between )  
 points in the State of California. )

William J. Knoell, for applicant.  
 A. J. Lyon, for Commission staff.

O P I N I O N

Applicants Donald F. Campbell and Frank E. O'Connors hold a certificate of public convenience and necessity authorizing the transportation of petroleum and petroleum products as a petroleum irregular route common carrier between all points in the State of California granted by Decision No. 44565 of this Commission, dated July 25, 1950, in Application No. 31246. This application, No. 36589, filed December 28, 1954, requests an order authorizing Donald F. Campbell and Frank E. O'Connors to sell and Morris Esacove to purchase and thereafter operate said petroleum irregular route common carrier rights.

Public hearing was held before Examiner John A. Rowe, Jr., in Los Angeles on April 14, 1955, at which hearing evidence was adduced and the matter duly submitted.

During the last two years the sellers have not reported any taxable revenue from their certificated operation. They have, however, maintained their tariffs on file with the Commission, and they own equipment suitable for this transportation. There is no evidence of record that they have ever refused to carry any petroleum or petroleum products offered for shipment. Their certificate of public convenience and necessity has not been revoked.

Applicant Esacove has had extensive experience in the transportation of petroleum and petroleum products over a period of twenty-four years. He is in a sound financial position and has acquired two tank truck and trailer units and has three additional units on order, which will be delivered within ninety days. These five units will represent an investment of \$150,000.

The Commission finds that the proposed transfer of operative rights will not be adverse to the public interest. No equipment or property is to be transferred with the operative rights. The purchase price for the rights, which is \$1,500, will be paid in cash. The action taken herein shall not be construed to be a finding of the value of the operative rights herein authorized to be transferred.

Applicant Esacove 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 as to the number of rights which may be given.

O R D E R

Application therefor having been filed, public hearing thereon having been held, the Commission being fully advised and finding that the proposed transfer is not adverse to the public interest,

IT IS ORDERED:

1. That within sixty days after the effective date hereof applicants Donald F. Campbell and Frank E. O'Connors may sell and transfer, for \$1,500 cash, the operative rights granted by

Decision No. 44565, dated July 25, 1950, in Application No. 36589 to applicant Morris Esacove, doing business as Statewide Tank Lines, and said latter applicant may acquire and thereafter exercise said operative rights.

2. That within thirty days after the consummation of the transfer herein authorized, said Morris Esacove shall notify the Commission in writing and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may have been executed to effect such transfer.

3. That within sixty days after the effective date hereof and on not less than five days' notice to the Commission and the public, applicant Morris Esacove, doing business as Statewide Tank Lines, shall institute said service and shall join with Donald F. Campbell and Frank E. O'Connors in supplementing or amending tariffs on file with the Commission, naming rates, rules and regulations governing the operations here involved to show that Donald F. Campbell and Frank E. O'Connors have withdrawn and that Morris Esacove has adopted as his own said rates, rules and regulations.

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

Dated at Los Angeles, California, this 16<sup>th</sup> day of May, 1955.

[Signature]  
President  
[Signature]  
[Signature]  
[Signature]  
Commissioners