

ORIGINAL

Decision No. 51515

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
Donald T. Miller and Stanley G.)
Worsham, doing business as M & W)
TRUCKING SERVICE, to sell, and)
William Gilmore and Kenneth Page,)
doing business as, GILMORE AND PAGE,)
to buy Petroleum Irregular Route)
Common Carrier rights between points)
in the State of California.)

Application No. 36882

O P I N I O N

Donald T. Miller and Stanley G. Worsham, doing business as M & W Trucking Service, have authority from the Commission to render services 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 tanks, trucks and tank trailers between all points and places in the State of California.⁽¹⁾ By the application herein the Commission is requested to authorize Donald T. Miller and Stanley G. Worsham, doing business as M & W Trucking Service to sell, and William Gilmore and Kenneth Page, doing business as Gilmore and Page, to purchase the described operative rights for the sum of \$1,500.00 all of which is payable by the purchasers to the sellers within thirty days after the effective date of the order of this Commission permitting the proposed transfer.⁽²⁾ No property other than the operative rights is to be transferred.

(1) The rights were originally granted to Floyd E. Davis (Decision No. 44348, dated June 20, 1950, in Application No. 31194) and subsequently acquired by the sellers herein (Decision No. 46053, dated August 7, 1951, in Application No. 32525).

(2) See Exhibit "A" in the application.

The application alleges that the sellers propose to sell the described operative rights in order that they may devote their time and interests to duties not involving the for-hire transportation of petroleum and petroleum products in bulk between points in the State of California.

The application further alleges that the purchasers desire to acquire the operative rights of the sellers above described, and that William Gilmore, one of the purchasers, has been engaged in the oil business for many years past and as such has operated his own equipment as a private owner.

The purchasers appear to be in a solvent financial condition. ⁽³⁾ They have advised the Commission that they have three tractors, three tank trailers and one tank truck available, and that the sellers are parties to various Tank Truck Operators' Tariff Bureau tariffs in which the buyers propose to participate. ⁽⁴⁾

In our opinion the proposed sale is not adverse to the public interest. The application will be granted. 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.

William Gilmore and Kenneth Page 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

(3) See Exhibit "D" in the application.

(4) See list of equipment attached to letter of May 12, 1955, from the Tank Truck Operators' Tariff Bureau.

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 having been made and the Commission having been fully advised in the premises,

IT IS ORDERED:

(1) That Donald T. Miller and Stanley G. Worsham may sell and transfer to William Gilmore and Kenneth Page, doing business as Gilmore and Page, within thirty days after the effective date hereof, the operating rights hereinabove described for the sum of \$1,500.00 payable within thirty days after the effective date of this order, and William Gilmore and Kenneth Page may acquire said operating rights.

(2) That within thirty days after the consummation of the transfer herein authorized William Gilmore and Kenneth Page, or either of them, shall notify the 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 the Commission naming rates, rules and regulations governing the common carrier operations here involved to show that Donald T. Miller and Stanley G. Worsham have withdrawn or canceled, and William Gilmore and Kenneth Page have adopted or

established 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 27th day of May, 1955.

John E. Mitchell
President

Donald L. ...

William J. ...

R. ...

Commissioners