

ORIGINALDecision No. 51570

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 KATHRYN ELLIOTT as administratrix)
 of the estate of KARL ELLIOTT,)
 deceased, to sell and COLLIER TRANS-) Application No. 36908
 PORTATION COMPANY, a corporation, to)
 purchase a petroleum irregular route)
 certificate.)

Frank Loughran, for applicant.
Daniel W. Baker, for Empire Transportation
 Company; R. A. Conyes, doing business as
 R. A. Conyes Tank Lines, and John W.
 Doudell, protestants.

O P I N I O N

By application filed April 22, 1955, Kathryn Elliott, as administratrix of the estate of Karl Elliott, deceased, requests authority to transfer, for a cash consideration of \$1,500, the operative rights¹ and goodwill of said Karl Elliott, who died February 11, 1955, to Collier Transportation Company, a California corporation. Said corporation seeks authority to acquire such operative rights and thereafter to carry on the business of a petroleum irregular route carrier thereunder. No equipment is to be sold to the corporate applicant.

Public hearing was held before Examiner Rowe in San Francisco on May 20, 1955, at which time evidence both oral and documentary was adduced and the matter duly submitted.

Empire Transportation Company, a corporation, R. A. Conyes, doing business as Conyes Tank Lines, and John W. Doudell, doing business as California Tank Ways, appeared as protestants.

¹ Decision No. 44400, dated June 20, 1950, in Application No. 31202.

Karl Elliott operated under the aforementioned certificate of public convenience and necessity on February 11, 1955. Prior to his death Karl Elliott regularly reported taxable revenue from his certificated operation and maintained tariffs on file with the Commission and owned equipment suitable for the transportation of petroleum and petroleum products. No evidence was produced which supports protestants' claim that deceased had abandoned operations under his certificate. It does not appear that Kathryn Elliott, as administratrix of deceased, was in any way remiss in her efforts to transfer the certificate of public convenience and necessity.

Applicant Collier Transportation Company is qualified by the experience of its personnel and has adequate financial ability to carry on operations under the certificated rights herein sought to be transferred. It presently carries lumber and forest products as a highway common carrier under authority of this Commission.² Arrangements have been made to acquire two full tank trailers and two tank semitrailers. This applicant now possesses sufficient power equipment to initiate the operation.

The three protestants submitted evidence that their equipment has not been fully used during the last few months and that their business has been falling off recently. The witnesses representing these protestants stated that in their opinion the entry into this field of a new and vigorous carrier would probably take business from them and would injure their respective businesses. There was, however, no evidence that these protestants would be required to curtail any service to the public or that the proposed transfer would in any respect adversely affect the public interest. The Commission finds that the proposed transfer will not adversely affect the public interest and should be authorized.

² Decision No. 50776, dated November 16, 1954, in Application No. 35878.

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 will not be adverse to the public interest,

IT IS ORDERED:

1. That on or before July 14, 1955, Kathryn Elliott, as administratrix of the estate of Karl Elliott, deceased, may sell and transfer to Collier Transportation Company, a corporation, the operative rights granted by Decision No. 44400, dated June 20, 1950, in Application No. 31202, upon the payment of \$1,500 in cash, and the purchasing corporation may acquire and thereafter operate the same.

2. That within thirty days after the transfer herein authorized, applicant Collier Transportation Company, a corporation, shall so notify the Commission in writing and within said period shall file with it true copies of any instruments executed to effect such transfer.

3. That in accordance with the Commission's General Order No. 80 and concurrently with the transfer authorized by ordering paragraph 1 hereof, on not less than five days' notice to the Commission and the public, applicant Collier Transportation Company, a corporation, shall within the period provided in said ordering paragraph 1 institute service under the operative rights hereby acquired and shall join with Kathryn Elliott as such administratrix in supplementing or amending tariffs on file with the Commission naming rates, rules and regulations governing the operations herein involved to show that Karl Elliott has withdrawn and said Collier

Transportation Company has adopted as its 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 9th day of June, 1955.

Walter E. Hatchell
President

Paula L. ...
...

Commissioners

Justus E. Craemer
Commissioner Rex Hardy, being necessarily absent, did not participate in the disposition of this proceeding.