

ORIGINALDecision No. 51908

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 Petro-Lum, Inc., a California corporation,
 for a certificate of public convenience
 and necessity to operate as a highway
 common carrier.) Application No. 36248

In the Matter of the Application of
 J. L. GROOM and/or MARION GROOM, doing
 business under the firm name and style
 of GROOM TRUCKING CO., to lease and
 sell, and of PETRO-LUM, INC., a California
 corporation, to lease and purchase an
 automotive line operated at all points
 in California.) Application No. 36870

Marvin J. Colangelo and Allan L. Sapiro, for applicants.
William Meinhold and Frederick E. Fuhrman, for Southern
 Pacific Company and Northwestern Pacific Railroad Company,
 protestants.

Marvin Handler, for Nielsen Freight Lines, Warren
 Transportation Co., Empire Transportation Co.,
 Orr Tank Lines, John W. Doudell and R. A. Conyes,
 protestants.

Willard S. Johnson, for J. Christenson Co., and
 J. A. Nevis Trucking, Inc., protestants of Application
 No. 36248 only.

Frederick W. Mielke, for Delta Lines, Inc., protestant
 of Application No. 36248 only.

Douglas Brookman, for Merchants Express Corporation,
 Way Freight Lines, California Motor Express, Ltd.,
 and Valley Express Co., protestants in Application
 No. 36248 only.

O P I N I O N

Petro-Lum, Inc., a California corporation, by Application
 No. 36248 filed November 15, 1954, as subsequently amended, requests
 authority to operate as a highway common carrier, pursuant to
 Section 1063 of the Public Utilities Code, for the transportation of
 lumber and forest products in amounts of 20,000 pounds or more between
 Eureka, California, and the Los Angeles Basin area, serving inter-
 mediate points and off-route points over described routes. Applica-
 tion No. 36870 filed April 8, 1955, is a request by J. L. Groom and

his wife, Marion Groom, to transfer their certificate of public convenience and necessity as a petroleum irregular route carrier (1) to Petro-Lum, Inc., a California corporation, which seeks authority to acquire said certificated rights and to operate thereunder.

Public hearings were held before Examiner Rowe in San Francisco on July 21 and 22, 1955, at which time evidence, both oral and documentary, was adduced and both matters, being consolidated for the purpose of taking evidence, were duly submitted for decision.

All of the protestants withdrew their protests as to the granting of Application No. 36248 which requested a certificate of public convenience and necessity as a highway common carrier of lumber and forest products in amounts of 20,000 pounds, or more, per shipment. The evidence as to the public need for this service was convincing and uncontradicted. The application will therefore be granted, to the extent set forth in the ensuing order. ✓

The request for authority to transfer operative rights as a petroleum irregular route carrier was protested by eight carriers of petroleum products. These protestants, however, introduced no evidence to support a finding that this transfer will injuriously affect their businesses. Applicants produced evidence to the effect that J. L. Groom and his wife are no longer in a financial position to continue this service. The applicant corporation, formed by some of the creditors of applicant J. L. Groom to acquire these operative rights, has successfully performed this service commencing September 17, 1954, to the present time. Four pieces of power equipment - one tractor and three trucks - have been used to transport lumber and petroleum and petroleum products. The corporation

(1) Decision No. 47517 dated July 28, 1952, in Application No. 33565.

has acquired and has been using, in addition, three tank trailers, one semitrailer flatbed and three full trailer flatbeds.

The financial statement submitted by the corporation applicant indicates that if the operations are to be carried on successfully, additional capital will be required. As of the present time no corporate stock has been issued. Any necessary additional capital may be acquired by the issuance of such stock. The contemplated use of this corporation as a means of satisfying creditors of applicant J. L. Groom can only be permitted to the extent that such end may be accomplished consistently with the successful operation of the corporation as a highway common carrier and as a petroleum irregular route carrier.

This Commission, by issuing the following order, is in no manner committing itself to give any consideration to the rights of the creditors of applicants J. L. and Marion Groom as such. We note, however, the testimony of applicant Groom that no property of any value presently belonging to Petro-Lum, Inc., is to be transferred to applicants Groom as consideration for the transfer by the latter of the operative rights acquired pursuant to Decision No. 47517 dated July 28, 1952, in Application No. 33565.

The Commission finds that the proposed transfer of operative rights will not be adverse to the public interest, provided no assets of the corporation are paid to J. L. or Marion Groom as consideration for said operative rights. No equipment or property is to be transferred with said operative rights. The action taken herein shall not be construed to be a finding of the value of the operative rights herein authorized to be transferred.

Petro-Lum, Inc., is hereby placed on 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

Application therefor having been filed, public hearings having been held, and the Commission having found that public convenience and necessity require the grant of the highway common carrier operative rights as hereinafter issued, and that the transfer of the certificate authorizing operation as a petroleum irregular route carrier will not be adverse to the public interest,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity is granted to Petro-Lum, Inc., a corporation, authorizing it to operate as a highway common carrier as defined by Section 213 of the Public Utilities Code for the transportation of property between the points as more particularly set forth in Appendix A and Appendix B attached hereto and made a part hereof, subject to the condition that within 90 days after the effective date hereof, Petro-Lum, Inc., shall have provided \$10,000 additional cash as working capital and issued stock against said amount.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe the following service regulations:

(a) Within thirty days after the effective date hereof, applicants shall file a written acceptance of the certificate herein granted. By accepting the certificate of public convenience and necessity herein granted, applicants are placed upon notice that they will be required, among other things, to file annual reports of their operations and to comply with and observe the safety rules and other regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority granted by this decision.

(b) Within sixty days after the effective date hereof, and upon not less than five days' notice to the Commission and the public, applicant shall establish the service herein authorized and file in triplicate and concurrently make effective, tariffs satisfactory to the Commission.

(3) That within sixty days after the effective date hereof applicants J. L. Groom and Marion Groom may transfer the operative rights acquired by them pursuant to Decision No. 47517 to Petro-Lum, Inc., and said latter applicant may acquire and thereafter exercise said operative rights, subject to the condition that no property or cash now owned by Petro-Lum, Inc., may be paid therefor.

(4) That within thirty days after the transfer herein authorized said Petro-Lum, Inc., shall notify the Commission thereof 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.

(5) That within sixty days after the effective date here and on not less than five days' notice to the Commission and the public, applicant Petro-Lum, Inc., shall institute said service and shall join with J. L. Groom and Marion Groom in supplementing or amending tariffs on file with the Commission, naming rates, rules, and regulations governing the petroleum operations here involved to show that J. L. Groom and Marion Groom have withdrawn and that

Petro-Lum, Inc., 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 30th day of August, 1955.

[Signature]
President

[Signature]

[Signature]

[Signature]

Commissioners

Commissioner Ray E. Untereiner, being necessarily absent, did not participate in the disposition of this proceeding.

GH
Decision No. 51908
Dated AUGUST 31, 1955
Application No. 236248

APPENDIX A

Petro Lum, Inc., by the certificate of public convenience and necessity granted in the above-numbered decision is authorized to transport lumber and forest products as described in Minimum Rate Tariff No. 2 between Eureka, Honeydew, Willits, Booneville, Cloverdale, Healdsburg, Wheeler, Ukiah, (including points within a radius of 25 miles thereof) on the one hand and the Los Angeles Basin Territory, as defined in the attached Appendix B, on the other hand, and between Wheeler and Willits. Such authority does not include the right to render service from, to or between intermediate points.

Applicant shall not transport any shipments of less than 20,000 pounds.

APPENDIX B ✓

LOS ANGELES BASIN TERRITORY includes that area embraced by the following boundary: Beginning at the point the Ventura County-Los Angeles County boundary line intersects the Pacific Ocean; thence northeasterly along said county line to the point it intersects State Highway No. 118, approximately two miles west of Chatsworth; easterly along State Highway No. 118 to Sepulveda Boulevard; northerly along Sepulveda Boulevard to Chatsworth Drive; northeasterly along Chatsworth Drive to the corporate boundary of the City of San Fernando; westerly and northerly along said corporate boundary to McClay Avenue; northeasterly along McClay Avenue and its prolongation to the Angeles National Forest Boundary; southeasterly and easterly along the Angeles National Forest and San Bernardino National Forest boundary to the county road known as Mill Creek Road; westerly along Mill Creek Road to the county road 3.8 miles north of Yucaipa; southerly along said county road to and including the unincorporated community of Yucaipa; westerly along Redlands Boulevard to U.S. Highway No. 99; northwesterly along U. S. Highway No. 99 to the corporate boundary of the City of Redlands; westerly and northerly along said corporate boundary to Brookside Avenue; westerly along Brookside Avenue to Barton Avenue; westerly along Barton Avenue and its prolongation to Palm Avenue; westerly along Palm Avenue to La Cadena Drive; southwesterly along La Cadena Drive to Iowa Avenue; southerly along Iowa Avenue to U. S. Highway No. 60; southwesterly along U. S. Highways Nos. 60 and 395 to the county road approximately one mile north of Perris; easterly along said county road via Nuevo and Lakeview to the corporate boundary of the City of San Jacinto; easterly, southerly and westerly along said corporate boundary to San Jacinto Avenue; southerly along San Jacinto Avenue to State Highway No. 74; westerly along Highway No. 74 to the corporate boundary of the City of Hemet; southerly, westerly and northerly along said corporate boundary to the right of way of The Atchison, Topeka & Santa Fe Railway Company; southwesterly along said right of way to Washington Avenue; southerly along Washington Avenue, through and including the unincorporated community of Winchester to Benton Road; westerly along Benton Road to the county road intersecting U. S. Highway No. 395, 2.1 miles north of the unincorporated community of Temecula; southerly along said county road to U. S. Highway No. 395; southeasterly along U. S. Highway No. 395 to the Riverside County-San Diego County boundary line; westerly along said boundary line to the Orange County-San Diego County boundary line; southerly along said boundary line to the Pacific Ocean; northwesterly along the shore line of the Pacific Ocean to point of beginning.