

Decision No. 52055**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:
 SYSTEM TANK LINES, INC., a corporation, to
 sell and PACIFIC INTERMOUNTAIN EXPRESS CO.,
 a corporation, to purchase certificates of
 public convenience and necessity, pursuant
 to Sections 851-853 of the California Public
 Utilities Code. } Application No. 37184

O P I N I O N

Pacific Intermountain Express Co., hereinafter called Pacific, is a Nevada corporation. System Tank Lines, Inc., hereinafter called System, is an Oregon corporation. Each is qualified to transact intrastate business in the State of California and each maintains its principal place of business at 299 Adeline Street, Oakland 4, California. Pacific seeks authority herein to purchase from System the intrastate operating authority of the latter. The application specifically alleges that System is presently engaged in operations as a petroleum irregular route carrier and also as a highway common carrier of petroleum and petroleum products in bulk, pursuant to certificates of public convenience and necessity granted by this Commission. ^{1/} Likewise, System has operating authority from the

^{1/} Clark E. Seargeant, Audrey L. Seargeant and Roger E. Seargeant, copartners doing business as Seargeant Transportation Company, were granted a certificate of public convenience and necessity to transport petroleum products, with exceptions, by Decision No. 42623, dated March 15, 1949, in Application No. 29472, and also were granted a certificate of public convenience and necessity as a petroleum irregular route carrier by Decision No. 44367, dated June 20, 1950, in Application No. 31072. Both of these certificates were transferred to System Tank Lines, Inc., by Decision No. 47125, dated May 5, 1952, in Application No. 33274.

System Tank Service, Inc., was granted a certificate of public convenience and necessity as a petroleum irregular route carrier by Decision No. 44328, dated June 20, 1950, in Application No. 30894. (Continued on page 2).

Interstate Commerce Commission. It is further alleged that System is a wholly owned subsidiary of Pacific, and that the Boards of Directors of both companies have adopted resolutions authorizing the proposed sale. The consideration is the cancellation of all of the capital stock of System and the assumption by Pacific of all of the liabilities of System. Copies of the resolutions authorizing these transactions are attached to the application. No monetary consideration will be paid for the transfer of assets, nor will any shares of stock be issued by either applicant as a result of this application. Upon completion of the transaction it is proposed to dissolve System.

It is likewise proposed to transfer all of the properties of System, and in this connection balance sheets of both companies are attached to the application, as well as a list of the equipment presently owned by System. Likewise, there is attached to the application a balance sheet as of March 31, 1955, giving effect to the transaction herein proposed, and, in addition, copies of the journal entries setting out this transaction are attached to the application.

It is alleged that the Interstate Commerce Commission has approved the purchase of all of the stock and control of System by Pacific by an order dated June 21, 1955.

1/ continued - This certificate was transferred to System Tank Lines Inc., by Decision No. 45943, dated July 10, 1951, in application No. 32474. Lang Transportation Corporation was granted a certificate of public convenience and necessity to transport petroleum products, with exceptions, by Decision No. 42623 supra, and Decision No. 43049, dated June 28, 1949, in application No. 29416, and a certificate of public convenience and necessity as a petroleum irregular route carrier by Decision No. 44374, dated June 20, 1950, in application No. 31049. Manning Tank Lines, Inc., was issued a certificate of public convenience and necessity as a petroleum irregular route carrier by Decision No. 44329, dated June 20, 1950, in application No. 30801. All three of these certificates were transferred to System Tank Lines, Inc., by Decision No. 49610, dated January 26, 1954, in application No. 34855..

After a full consideration of this matter we are of the opinion and hereby find that System should be permitted to transfer the certificates of public convenience and necessity described herein to Pacific. A public hearing is not necessary.

An analysis of the operating authorities presently outstanding in the name of System discloses there are four petroleum irregular route carrier certificates (Decisions Nos. 44328, 44329, 44367; 44374), and two certificates authorizing highway common carrier operations (Decisions Nos. 42623 and 43049 supra).

The transfer herein authorized will be construed to transfer to Pacific one petroleum irregular route certificate embracing all of the authority set out in the four certificates, and one highway common carrier certificate embracing all of the authority set out in the decisions referred to above. Pacific will not be permitted to create additional operating authorities as a result of this transfer.

Pacific Intermountain Express Co. 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 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 as above entitled having been made, the Commission being fully advised in the premises and hereby finding that the proposed transfer will not be adverse to the public interest,

IT IS ORDERED:

(1) That System Tank Lines, Inc., a corporation, after the effective date hereof, may transfer to Pacific Intermountain Express Co., a Nevada corporation, its tangible property and operative rights referred to herein, and Pacific Intermountain Express Co. is hereby authorized to purchase said operative rights and equipment and thereafter to operate thereunder, subject to the conditions hereinafter set out.

(2) That within sixty days after the effective date hereof and on not less than five days' notice to the Commission and the public, applicants shall amend tariffs on file with this Commission naming rates, rules and regulations governing the common carrier operations here involved to show

that System Tank Lines, Inc., has withdrawn and Pacific Intermountain Express Co. has adopted as its own said rates, rules and regulations.

(3) That the authority herein authorized to be transferred shall be construed as one operating authority, and Pacific Intermountain Express Co. will not be permitted to create additional operating authorities as a result of this transfer.

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

Dated at San Francisco, California,
this 11th day of October, 1955.

[Signature]
President

[Signature]
[Signature]

[Signature]
[Signature]
Commissioners