

Decision No. 52545

**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )

POMONA TANK LINE,  
a California corporation,

for authority to sell and issue its  
capital stock; and

In the Matter of the Application of )

BOYSIE E. DAY, GRADY D.  
DAY and FRED G. BONNER,  
doing business as POMONA  
TANK LINE, a partnership,

to transfer Certificate of Public  
Convenience and Necessity to  
POMONA TANK LINE, a California  
corporation.

Application  
No. 37646

O P I N I O N

This is an application for an order of the Commission authorizing Boysie E. Day, Grady D. Day, and Fred G. Bonner, partners doing business as Pomona Tank Line, to transfer highway common carrier operations to Pomona Tank Line, a corporation, and authorizing said corporation to issue \$10,000 par value of its common stock.

The application shows that the three partners, pursuant to authorization granted by Decision No. 49011, dated August 25, 1953, have been engaged in operating a highway common carrier service for the transportation of petroleum products in bulk, except liquid petroleum gas, liquid asphalt, and hot road oils, generally throughout the state. Information available to the Commission indicates

that the operations have been profitable, the recorded revenues and expenses for 1954, the first full year of operation, and for the first nine months of 1955 being as follows:

	<u>1954</u>	<u>1955 9 Months</u>
Revenues	\$90,802	\$100,982
Expenses	<u>77,218</u>	<u>81,103</u>
Net profit	<u>\$13,584</u>	<u>\$19,879</u>

A summary of the partners' financial position as of September 30, 1955, follows:

Assets

Current assets -		
Cash	\$ 4,894	
Accounts receivable	<u>30,952</u>	
Total current assets		\$ 35,846
Tangible assets, less reserve		40,239
Deposits and prepayments		<u>1,120</u>
Total		\$ <u>77,205</u>

Liabilities and Capital

Current liabilities	\$ 23,998
Long-term liabilities	18,686
Proprietors' capital	<u>34,521</u>
Total	\$ <u>77,205</u>

The partners now desire to conduct their operations by means of a corporate form of organization. They have organized Pomona Tank Line, a corporation, and they propose to transfer to it their operative rights and equipment, the corporation to assume the outstanding indebtedness and to issue \$10,000 par value of stock. The excess of the net book value of the assets acquired, less the liabilities to be assumed, over the par value of the stock will be credited to the corporation's paid-in surplus account.

The application shows that the corporation proposes to continue the highway common carrier operations in the same territory, on the same schedules, and at the same rates and charges as such operations are now operated by the partnership.

Under the circumstances set forth in this application we are of the opinion, and so find, that the transfer will not be adverse to the public interest. Applicants are 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.

The action taken herein shall not be construed to be a finding of the value of the rights and properties herein authorized to be transferred.

O R D E R

The Commission having considered the above entitled matter and being of the opinion that a public hearing is not necessary, that the application should be granted, as herein provided, that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required by applicant

corporation for the purpose specified herein, and that such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income; therefore,

IT IS HEREBY ORDERED as follows:

1. Boysie E. Day, Grady D. Day and Fred G. Bonner, partners doing business as Pomona Tank Line, may transfer their operative rights and equipment to Pomona Tank Line, a corporation, as set forth in this application, such transfer to be made on or before April 30, 1956.

2. Pomona Tank Line, a corporation, in consideration for such transfer, may assume the outstanding liabilities of said partners as of the date of transfer, and may issue not exceeding \$10,000 par value of its common capital stock.

3. 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 Boysie E. Day, Grady D. Day and Fred G. Bonner have withdrawn or canceled and that Pomona Tank Line, a corporation, has adopted or established, as its own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

4. Pomona Tank Line, a corporation, shall file with the Commission a report, or reports, as required by General Order

No. 24-A, which order, insofar as applicable, is made a part of this order.

5. The authority herein granted will become effective 20 days after the date hereof.

Dated at Los Angeles, California, this 31<sup>st</sup> day of January, 1956.

(J. E. Mitchell)  
President

Justin J. Casner  
Paul L. Sullivan

Wm. J. Doherty  
R. H. Hardy  
Commissioners