

ORIGINAL

Decision No. 53275

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of

JOHN VALINE, an individual doing business as NORCO TRANSPORTATION COMPANY, for authorization to sell and transfer and of NORCO TRANSPORTATION COMPANY, a corporation, to purchase and acquire operating properties and a certificate of public convenience and necessity authorizing operations as a petroleum irregular route carrier and of NORCO TRANSPORTATION COMPANY for authorization to issue stock.

Application
No. 38064

O P I N I O N

In this proceeding the Commission is asked to make an order authorizing John Valine to transfer an operative right and other assets to Norco Transportation Company, a corporation, and authorizing said corporation to issue and sell 3,500 shares of its \$10 par value stock.

By Decision No. 45074, dated December 5, 1950, the Commission granted a certificate of public convenience and necessity to a partnership, doing business as Chico Butane & Appliance Co., authorizing the establishment and operation of a service as a petroleum irregular route carrier for the transportation of petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California. John Valine acquired the certificate of public convenience and necessity from said partnership under the authority of Decision No. 48677, dated June 9, 1953. For the year 1955, John Valine reports freight revenue of \$29,458.81 and nonutility revenue of \$40,179.21, or a total of \$69,668.02, and net income of \$15,213.25.

Norco Transportation Company is a California corporation recently organized for the purpose of acquiring from John Valine his certificate and four units of automotive equipment. Applicants have entered into an agreement providing for the sale and transfer of the certificate, equipment, and good will for \$29,000, of which \$19,719.12 is assigned to the automotive equipment and approximately \$10,000 to nonutility business described as intangible.

In order to provide funds for the purchase price and for initial working capital, Norco Transportation Company, a corporation, proposes to issue and sell \$35,000 par value of its capital stock.^{1/} However, in our opinion, the Commission is without power to authorize the issuance of stock against the \$10,000 value assigned to the intangible nonutility business, or the sale of stock to provide the cash payment of \$10,000, and the order herein will be limited to \$25,000 of stock.

Upon reviewing the application we are of the opinion, and so find, that the proposed transfer will not be adverse to the public interest. Applicant corporation 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.

^{1/} The stock will be issued to the following:

John Valine	\$ 3,000
California Liquid Gas Corporation	32,000

The action taken herein shall not be construed to be a finding of the value of the operative right and property herein authorized to be transferred.

ORDER

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, only as herein provided, that the money, property or labor to be procured or paid for by the issue of \$25,000 par value of stock is reasonably required for the purposes specified herein, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income, therefore,

IT IS HEREBY ORDERED as follows:

1. John Valine may transfer to Norco Transportation Company, a corporation, on or before September 30, 1956, his operative right and equipment, as set forth in this application.
2. Norco Transportation Company, a corporation, may issue not exceeding \$25,000 par value of its stock in payment for the operative right and equipment referred to in this proceeding, and to provide working capital, or may sell said stock at par for cash and use the proceeds for said purposes.
3. This application, insofar as it involves the issuance of \$10,000 of stock, is denied.
4. On not less than five days' notice to the Commission and to the public, effective concurrently with the consummation of such transfer, applicants shall supplement or reissue the tariffs on file

with the Commission naming rates, rules and regulations governing the petroleum irregular route carrier operations here involved to show that John Valine has withdrawn or canceled and Norco Transportation Company, 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.

5. Norco Transportation Company, 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.

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

Dated at San Francisco, California, this 26th day of September, 1956.

John E. ...
President

Justice J. ...
Ronald ...
...

Commissioners