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Decision No. _____

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

SMITH TANK LINES, a California corporation,

and

LAURA E. SMITH, an individual, doing business as UNION TRUCK SERVICE,

Application No. 38877

For an Order Authorizing the Sale and Transfer of Business Assets, Together with a Certificate of Public Convenience and Necessity as a Petroleum Irregular Route Carrier Between All Points in California, and the Issuance of Shares of Capital Stock in Exchange and as Consideration Therefor.

O P I N I O N

This is an application for an order of the Commission (1) authorizing Laura E. Smith, doing business as Union Truck Service, to transfer operative rights, business and assets to Smith Tank Lines, a corporation, and (2) authorizing said corporation to issue 384 shares of its common stock of the par value of \$100 each.

The application shows that Laura E. Smith owns a certificate of public convenience and necessity granted by the Commission by Decision No. 44246, dated May 26, 1950, in Application No. 31142, authorizing transportation, as a petroleum irregular route carrier, of petroleum and petroleum products, in bulk and in tank trucks and trailers, from, to and between all

points and places in the state. For the eleven months ended November 30, 1956, she has reported revenues from transportation at \$74,257 and from brokerage and sales activities at \$77,186, a total of \$151,443, and net profit at \$16,215.

In Exhibit C attached to the application, applicant Smith has reported her assets, liabilities and capital as follows:

Assets

Current assets -		
Cash and deposits	\$ 3,970	
Accounts receivable	61,081	
Prepayments	1,045	
Materials and supplies	<u>2,602</u>	
Total current assets		\$68,698
Tangible property, less reserve		<u>19,818</u>
Total		<u>\$88,516</u>

Liabilities and Capital

Current liabilities	\$50,116
Proprietorship	<u>38,400</u>
Total	<u>\$88,516</u>

It now appears that Laura E. Smith has concluded that her operations can be conducted more advantageously by means of a corporate form of organization and that she proposes to transfer her operative rights, business and assets to Smith Tank Lines, a new corporation which she has formed for the express purpose of taking over such rights, business and assets and of conducting the operations. The corporation, in acquiring the operative rights, business and assets, will assume the outstanding liabilities and will issue its stock at par in an amount equivalent to the net book value of the assets being transferred. A detailed statement of the balance sheet figures indicates that no allowance is included in the asset values for operative rights.

It appears that there will be no change in the rates or service as the result of the transfer and that the same operative properties will be available to the corporation as now are utilized by applicant Smith. Upon reviewing the verified application, we are of the opinion, and so find, that the transfer under the terms as proposed, and subject to the conditions of the order herein, will not be adverse to the public interest and should be authorized.

Applicants are 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.

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. Laura E. Smith may transfer to Smith Tank Lines, a corporation, the operative rights granted by the Commission by Decision No. 44246, dated May 26, 1950, and her business and assets, such transfer to be made on or before September 30, 1957. Smith Tank Lines may acquire such operative rights, business and assets and continue the operations under the firm name and style of Union Truck Service.

2. Smith Tank Lines, a corporation, in payment for such rights, business and assets, may issue not exceeding 384 shares of its capital stock of the aggregate par value of \$38,400 and assume the payment of outstanding indebtedness.

3. 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 operations here involved to show that Laura E. Smith has withdrawn or canceled and Smith Tank Lines, 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. Smith Tank Lines, 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. This order will become effective on the date hereof.

Dated at Los Angeles, California, this 26th
day of March, 1957

[Signature]
President
[Signature]
[Signature]
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Commissioners