

ORIGINAL

Decision No. 54873

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

L. A. (MIKE) SCHAGER, an individual,
to purchase, and of MIKE SCHAGER, INC.,
a corporation, to sell a certificate
of public convenience and necessity
as a petroleum irregular route carrier
and motor vehicle equipment and other
property, pursuant to Sections 851-853
of the Public Utilities Code.

Application No. 38942

O P I N I O N

Mike Schager, Inc., a California corporation engaged in operating a petroleum irregular route service in this state, seeks authorization to transfer operative rights and equipment to L. A. Schager, an individual.

The operative rights are represented by a certificate of public convenience and necessity established by Decision No. 50951, dated January 4, 1955, and transferred to the present carrier corporation by Decision No. 51431, dated May 10, 1955, and the motor vehicle equipment consists of all the equipment now utilized by the present carrier. The agreement for the transfer contemplates the cancellation of indebtedness to L. A. Schager by Mike Schager, Inc., in the total sum of \$29,430.

It is asserted by applicants that the operations can be conducted more advantageously by an individual than by a corporation due to the lower overhead costs and the personal

goodwill enjoyed by Mr. Schager in the area in which the operations are conducted. The application shows that Mr. Schager individually is in a position to finance the operations and to continue the service, that he will adopt the existing tariffs and that there will be no interruption of service to the public.

Upon the basis of the representations made in this proceeding, we are of the opinion and so find that the proposed transfer will not be adverse to the public interest and should be approved by an ex parte order in this proceeding.

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 operative rights and equipment 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; therefore,

IT IS HEREBY ORDERED as follows:

1. Mike Schager, Inc., may sell and transfer to L. A. Schager the petroleum irregular route certificate and the equipment referred to in this application, under the terms of the agreement dated January 28, 1957, which is filed with the application as Exhibit A.

2. 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 common carrier operations here involved to show that Mike Schager, Inc., has withdrawn or canceled and L. A. Schager has adopted or established, as his 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.

3. The authority herein granted will become effective twenty days after the date hereof.

Dated at San Francisco, California, this 29 day
of APRIL, 1957.

[Signature]
President
[Signature]
[Signature]

Commissioners