

ORIGINAL

Decision No. 55220

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
RUBY NEWMAN and FLORENCE B. FLEKAL, :
as Executrix of the Estate of ALFRED)
FLEKAL, deceased to sell and :
):

OILFIELDS VACUUM SERVICE, INC., a :
California Corporation, to acquire)
the business and Certificates of :
Public Convenience and Necessity)
authorizing the transportation of :
petroleum products as an irregular)
route carrier and for said Corpora- :
tion to issue stock and execute)
notes and a chattel mortgage. :
-----)

Application No. 39144

O P I N I O N

This is an application for an order of the Commission (1) authorizing Ruby Newman and Florence B. Flekal, as Executrix of the Estate of Alfred Flekal, deceased, to transfer operative rights, business and assets to Oilfields Vacuum Service, Inc., and (2) authorizing Oilfields Vacuum Service, Inc., to issue 15,000 shares of common stock for \$30,000 and to issue promissory notes in the aggregate amount of \$65,000.

The application shows that Oilfields Vacuum Service, Inc., was organized to take over the certificate of public convenience and necessity originally granted by the Commission to John Newman and Alfred Flekal, both now deceased, by Decision No. 50391, dated August 10, 1954, together with the business and operative equipment. The certificate authorizes the establishment and operation of service as a petroleum irregular route carrier for the transportation of petroleum products, consisting of drilling

fluids, oil for oil well drilling, crude oil and road oil, in pump or vacuum-type trucks and trailers, between all points and places in the counties of Kern, Ventura and Santa Barbara, subject to certain restrictions.

The agreed consideration for the transfer is \$95,000, of which \$30,000 is payable in cash and \$65,000 will be represented by two notes; one for \$49,500 to the Estate of Alfred Flekal, which will be secured by a chattel mortgage, and the other for \$15,500 to Ruby Newman, each note to be payable in monthly installments of \$1,000 with interest at the rate of 5 per cent per annum.

T. C. Latham, the president of Oilfields Vacuum Service, Inc., and B. Willis Weekes, its secretary, have advanced the \$30,000 to make the cash payment and will accept stock in exchange for such advances.

A balance sheet of the corporation, giving effect to the acquisition of the properties, is as follows:

<u>Assets</u>		
Cash and accounts receivable		\$ 51,116
Tangible assets - cost less reserve		67,666
Prepaid insurance		<u>500</u>
Total		<u>\$119,282</u>
<u>Liabilities and Capital</u>		
Current liabilities		\$ 20,338
Long-term notes		65,000
Capital investment -		
T. C. Latham	\$15,000	
B. Willis Weekes	15,000	
Capital surplus	<u>3,944</u>	<u>33,944</u>
Total		<u>\$119,282</u>

The application indicates that said Latham and Weekes are experienced in the operations and are in a position to finance and maintain the operations. Upon the basis of the information

set forth in the verified application, we are of the opinion, and so find, that the proposed transfer will not be adverse to the public interest and that an order approving the transfer is warranted.

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.

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, as herein provided, that the money, property or labor to be procured or paid for by the issue of the stock and notes 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. Ruby Newman and Florence B. Flekal, as Executrix of the Estate of Alfred Flekal, deceased, may transfer to Oilfields Vacuum Service, Inc., the operative rights granted by the Commission by Decision No. 50391, dated August 10, 1954, and the business and assets, such transfer to be made on or before December 31, 1957.

2. Oilfields Vacuum Service, Inc., in acquiring such rights, business and assets, may issue not exceeding 15,000 shares of its common stock, may assume the payment of outstanding indebtedness, may issue two notes in the aggregate face amount of \$65,000, and may execute a chattel mortgage, all as set forth in this application.

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 Ruby Newman and Florence B. Flekal, as Executrix of the Estate of Alfred Flekal, have withdrawn or canceled and Oilfields Vacuum Service, Inc., 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. Oilfields Vacuum Service, Inc., 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 when Oilfields Vacuum Service, Inc., has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$65.

Dated at San Francisco, California, 9th day
of July, 1957.

President
Paul L. Lawrence

W. H. Goble

R. H. Harty

T. L. Fox
Commissioners

