

Decision No. 57301

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of: )  
 HERCULES OIL COMPANY OF SAN DIEGO, INC., )  
 a corporation, to purchase, and of )  
 RICHARD A. COWAN, an individual to sell, )  
 a certificate of public convenience and )  
 necessity authorizing the transportation )  
 of petroleum and petroleum products in )  
 tank trucks and tank trailers, over ir- )  
 regular routes, between all points and )  
 places in the State of California, pur- )  
 suant to Sections 851-853 of the Public )  
 Utilities Code. )

Application No. 40435

O P I N I O N

By this application filed September 16, 1958, and amended October 20, 1958, Richard A. Cowan requested an order authorizing him to sell and Hercules Oil Company of San Diego, Inc., to purchase the petroleum irregular route certificate granted by Decision No. 44863 dated October 3, 1950, in Application No. 31318, for a consideration of \$1200 in cash.

It is alleged that applicant Cowan's financial position is such that he does not consider it feasible for him to continue his motor carrier business on the scale which is required to meet the demands of the shipping public. On the other hand, the purchasing corporation has had many years of experience in the sale of petroleum and petroleum products. This experience has included the handling of such commodities from refinery to point of sale. Because of its experience and its favorable financial position, it will be in a position to render an efficient and satisfactory transportation operation as a common carrier. The Commission finds that the proposed transfer will not be adverse to the public interest and it will

be granted. A public hearing appears to be unnecessary. The action taken herein shall not be construed to be a finding of the value of the operative rights to be transferred.

Applicant corporation is 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, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be modified or canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

O R D E R

Application therefor having been filed and the Commission being of the opinion that it should be granted,

IT IS ORDERED:

(1) That Richard A. Cowan is authorized to transfer to Hercules Oil Company of San Diego, Inc., a corporation, the operative rights granted by said Decision No. 44863 upon the payment of \$1200 cash.

(2) That on not less than five days' notice to the Commission and to the public, effective concurrently with the transfer herein authorized, applicant 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 Richard A. Cowan has withdrawn or canceled, and Hercules Oil Company of San Diego, Inc., has adopted or established as its own, said rates, rules and regulations. The tariff filing 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) That applicant, Hercules Oil Company of San Diego, Inc., is placed on notice that it will be required, among other things, to file annual reports of its operations and to comply with and observe the safety rules and regulations of the Commission's General Order No. 99. Failure to file such reports, in such form and at such time as the Commission may direct, or to comply with and observe the provisions of General Order No. 99, may result in a cancellation of the operating authority referred to in paragraph (1) of this order.

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 20th day of January, 1959.

Ernest Fox  
President

John C. (Bill) Hill

William J. Gable

Theodore H. Gennard

Commissioners