

Decision No. 58512**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 T. W. LINDEMAN, dba THOMPSEN TANK
 LINE, to sell and of ELLIS TRANSPORTA-
 TION CO., a California corporation,
 to purchase the Certificate of Public
 Convenience and Necessity authorizing
 the transportation of petroleum
 products as an irregular route carrier.

Application No. 41048

O P I N I O N

By Decisions Nos. 54745 and 55665, dated March 26, 1957, and October 8, 1957, respectively, T. W. Lindeman, doing business as Thompsen Tank Line, was authorized because of poor health to suspend his certificated operations as a petroleum irregular route carrier until February 25, 1958. On December 10, 1958, he informed the Commission by letter that he was financially and physically unable to provide service and that he had a prospective buyer to purchase his operative rights. By Decision No. 58263, dated April 14, 1959, the Commission continued the suspension pending further order.

By the instant application, filed April 20, 1959, applicant Lindeman requests authority to sell and Ellis Transportation Co., requests authority to purchase for a cash consideration of \$1,000 the suspended certificated authority.

Ellis Transportation Co., is presently providing service as a permitted carrier. It owns and operates a fleet of trucks consisting of tankers and hoppers. For the nine months ending January 31, 1959, it realized a net profit after taxes of \$29,811.68.

After consideration, the Commission is of the opinion and so finds that the proposed sale would not be adverse to the public interest. A public hearing is not necessary.

Ellis Transportation Co., 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 over a particular route. 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 having been filed and the Commission being informed in the premises,

IT IS ORDERED:

(1) That on or before August 15, 1959, T. W. Lindeman may sell and transfer, and Ellis Transportation Co., may purchase and acquire, the operative rights granted in Decision No. 44630, dated March 8, 1950, in Application No. 31071.

(2) That, within thirty days after the consummation of the transfer herein authorized, the purchaser shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

(3) That, on not less than five days' notice to the Commission and to the public, effective concurrently with the

consummation of such transfer, applicants shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations here involved, to show that T. W. Lindeman, doing business as Thompsen Tank Line, has withdrawn or canceled, and Ellis Transportation Co., has adopted or established as its own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

(4) That the suspension provided for by Decision No. 58263 shall remain in effect until the transfer authorized in ordering paragraph (1) hereof has been consummated.

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

Dated at San Francisco, California, this 22nd day of May, 1959.

[Signature]
President
[Signature]
[Signature]
Theodore Deemer
[Signature]
Commissioners