

ORIGINAL

Decision No. 60868

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of ROBERT A. ELLIS,)
 doing business as CALIFORNIA TANK)
 LINE, requesting permission to)
 transfer certain assets and)
 certificates to CALIFORNIA TANK)
 LINES, INC., a corporation,)
 Co-Applicant, in exchange for)
 6,000 Shares of Its Capital Stock,)
 or such lesser Amount as May be)
 Deemed Equitable, under Sections)
 816-830 and 851-853 of the)
 Public Utilities Code.)

Application No. 42632

O P I N I O N

This application was filed on September 1, 1960, for an order of the Commission (1) authorizing Robert A. Ellis, doing business as California Tank Line, to transfer operative rights and equipment to California Tank Lines, Inc., a corporation, and (2) authorizing said corporation to issue 6,000 shares of its common stock of the aggregate par value of \$60,000.

Applicant Ellis is engaged in the operation of a highway common carrier and a petroleum irregular route carrier service in California under certificates of public convenience and necessity granted by Decision No. 44136, dated May 2, 1950, Decision No. 44736, dated August 29, 1950 and Decision No. 53361, dated July 10, 1956. According to the pending application, he desires to incorporate his business and has organized California Tank Lines, Inc., a corporation, to receive his certificates and operative equipment and other assets and thereafter to continue the operations.

The new corporation will acquire the certificates and the other assets and will issue \$60,000 par value of its stock in payment. A pro forma statement giving effect to the transfer and to the issue of stock is as follows:

<u>Assets</u>	
Current assets -	
Cash on hand	\$5,000.00
Accounts receivable	1,034.00
Fixed assets -	
Trucks and equipment	46,104.00
Other assets -	
Other tangible assets	<u>12,862.00</u>
Total	<u>\$65,000.00</u>

<u>Liabilities and Capital</u>	
Liabilities -	
Promissory note payable to Robert A. Ellis, payable 8/19/61, interest at 6% per annum, payable monthly	\$ 5,000.00
Capital -	
Common stock, 6,000 shares at \$10 per share	<u>60,000.00</u>
Total	<u>\$65,000.00</u>

It appears that nothing is included in the foregoing statement for the operative rights; that the new corporation will adopt the rates of the present operator; and that it will continue the business with the same equipment and personnel as now are utilized. Upon reviewing the verified application, we find and conclude that the proposed transfer will not be adverse to the public interest; that the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein; and that

such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. We will enter our order granting the application.

California Tank Lines, Inc., a 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, 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. Robert A. Ellis may transfer his certificates of public convenience and necessity and his other assets, as set forth in this application, to California Tank Lines, Inc., a corporation. Said transfer, for accounting purposes, may be recorded as of September 1, 1960.

2. California Tank Lines, Inc., a corporation, in payment for said rights and other assets, may issue not to exceed \$60,000 par value of its common capital stock.

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 common carrier operations here involved to show that Robert A. Ellis has withdrawn or canceled and California Tank Lines, Inc., 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. California Tank Lines, Inc., 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. The authority herein granted shall become effective 20 days after the date hereof. If not exercised, such authorization will expire on December 31, 1960.

Dated at San Francisco, California,
this 11th day of October, 1960.

[Signature] President
[Signature]
[Signature]
Theodore Jenner Commissioners