

ORIGINAL

62083

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
)
 (a) WEBSTER TANK TRUCK SERVICE, INC.,)
 for authority to issue shares of its)
 common capital stock pursuant to)
 Section 816-830 of the California)
 Public Utilities Code.)
)
 (b) W. R. WEBSTER and W. O. WEBSTER,)
 doing business as WEBSTER TANK TRUCK)
 SERVICE, a co-partnership, to sell,)
 and WEBSTER TANK TRUCK SERVICE, INC.,)
 a corporation, to purchase, highway)
 common carrier operating rights for)
 the transportation of property between)
 points and places in the State of)
 California pursuant to Section 851-853)
 of the California Public Utilities)
 Code.)

Application No. 43329

Donald Murchison, for applicants.

O P I N I O N

In this application filed on April 17, 1961, W. R. Webster and W. O. Webster, doing business as Webster Tank Truck Service, a co-partnership, request authority to sell and transfer operative rights and property used in conducting operations as a petroleum irregular route carrier, to Webster Tank Truck Service, Inc., a corporation, and the corporation requests authority to issue shares of its capital stock in part payment for the properties to be acquired.

A public hearing on this matter was held in Los Angeles on May 12, 1961, before Examiner Donovan, at which time the matter

was taken under submission. For purposes of hearing, this matter was consolidated with Application No. 43379, a related matter, in which the co-partnership is requesting authority to transfer other operative rights to the corporation. No one appeared at the hearing to protest the granting of the applications.

The co-partnership is engaged in intrastate commerce within the State of California as a permitted carrier and as a petroleum irregular route carrier in the transportation of petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California, and as a highway common carrier in the transportation of petroleum and petroleum products in packages, cartons, and/or containers, when said products are moving in connection with or in conjunction with a coincidental movement of petroleum products in tank trucks or tank trailers under certificates heretofore granted by this Commission between points and places in the State of California. Such operative rights were acquired by Decision No. 44369, dated June 20, 1950, in Application No. 31067, and by Decision No. 61181, dated December 13, 1960, in Application No. 42563.

In Exhibit C attached to the application, the co-partnership reports, for the six months ended June 30, 1960, total freight revenue of \$128,359.20, other income of \$23,023.43, and net profit of \$37,669.16. For the twelve months ended December 31, 1960, as shown in Exhibit D attached to the application, the co-partnership reports total freight revenue of \$1,121,258.88, other income of \$22,630.08, and net profit of \$67,915.42. The

assets and liabilities of the co-partnership as of June 30, 1960, and as of December 31, 1960, as shown in Exhibit C and Exhibit D, respectively, attached to the application, are in summary form as follows:

	<u>June 30, 1960</u>	<u>December 31, 1960</u>
<u>Assets</u>		
Current Assets	\$ 81,442.09	\$216,398.19
Fixed Assets (net of depreciation)	104,278.37	119,510.85
Operative rights	-	-
	<u> </u>	<u> </u>
Total assets	<u>\$185,720.46</u>	<u>\$335,909.04</u>
<u>Liabilities</u>		
Current liabilities	\$ 57,108.88	\$208,740.24
Long-term obligations	68,099.17	51,076.43
Payable to affiliated company	23,012.41	
Net worth	<u>37,500.00</u>	<u>76,092.37</u>
Total liabilities	<u>\$185,720.46</u>	<u>\$335,909.04</u>

To provide continuity of operation, the members of the co-partnership have caused to be formed a California corporation to which they propose to transfer the certificates of public convenience and necessity and operative equipment and other assets, subject to liabilities, and thereafter to continue the operations. It is proposed that the transfer be made for accounting purposes as of June 30, 1960, and that on this basis the corporation will issue 375 shares of its capital stock of an aggregate stated value of \$37,500, in exchange for the net book value of the assets being acquired from the co-partnership, which assets include a certificate of public convenience and necessity granted by this Commission by Decision No. 44369, dated June 20, 1950, in Application No. 31067.

Authority to transfer the certificate acquired by the co-partnership under authorization granted by Decision No. 61181, dated December 13, 1960, is requested in related Application No. 43379 and is the subject of a separate decision which is being issued concurrently with this decision.

It appears that the new corporation will adopt the rates of the present operators and will continue the business with the same equipment and personnel as now are utilized, without interruption in the service.

On the basis of the evidence in this proceeding, we find and conclude: (1) that the transfer as proposed will not be adverse to the public interest, (2) that there will be no change in the management or the method of operation as a result of the transfer, (3) that there will be no change in the rates or other charges now assessed to the public, (4) that the application should be granted as herein provided, and (5) that the money, property or labor to be procured or paid for by the issue of 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.

The action taken herein shall not be construed to be a finding of the value of the operative rights and equipment and other assets herein authorized to be transferred. Webster Tank Truck Service, Inc., 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 canceled at any time by the state, which is not in any respect limited as to the number of rights which may be given.

C R D E R

A public hearing having been held, and the Commission being fully advised,

IT IS HEREBY ORDERED that:

1. After the effective date hereof and on or before August 1, 1961, W. R. Webster and W. O. Webster, doing business as Webster Tank Truck Service, a co-partnership, may sell and transfer to Webster Tank Truck Service, Inc., a corporation, the operative rights described in Decision No. 44369, issued June 20, 1950, in Application No. 31067, together with the equipment and other assets referred to in the application. For accounting purposes a transfer date of June 30, 1960 is authorized.

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 operations here involved, to show that W. R. Webster and W. O. Webster have withdrawn or canceled, and Webster Tank Truck Service, Inc., a corporation, has adopted or established as its own, said rates, rules, and regulations. The tariff filings made

A. 43329 EL

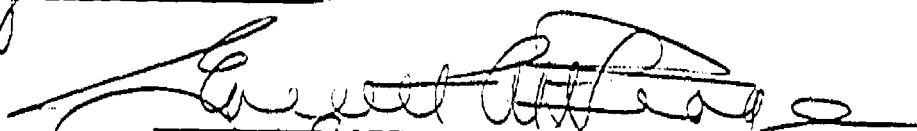
pursuant to this order shall comply in all respects with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

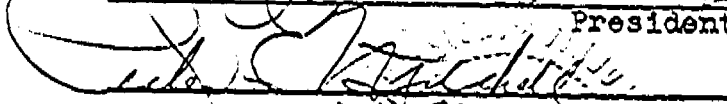
3. Webster Tank Truck Service, Inc., in part payment of operative rights and equipment and other assets, may issue not to exceed 375 shares of common stock and may assume payment of the outstanding liabilities, as shown in the application.


4. Webster Tank Truck Service, 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.

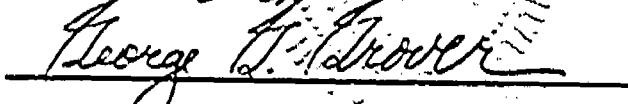
This order shall become effective on the date hereof.

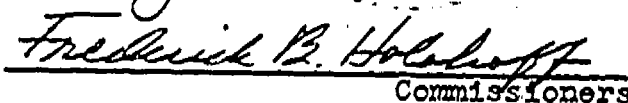
Dated at San Francisco, California,
this 10th day of June, 1961.



President








Commissioners