

**ORIGINAL**

Decision No. 62084

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of

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,

a Certificate of Public Convenience  
and Necessity pursuant to Sections  
851-853 of the California Public  
Utilities Code.

Application No. 43379

Donald Murchison, for applicants.

O P I N I O N

In this application filed on May 4, 1961, W. R. Webster and W. O. Webster, doing business as Webster Tank Truck Service, a co-partnership, request authority to transfer operative rights granted by Decision No. 61181, dated December 13, 1960, in Application No. 42563, to Webster Tank Truck Service, Inc., a corporation.

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. 43329, a related matter, in which the co-partnership is requesting authority to transfer to the corporation, as of June 30, 1960, a certificate as a petroleum

irregular route carrier and the properties utilized in rendering such service, and in which the corporation is requesting authority to issue \$37,500 stated value of its capital stock in payment for the properties, which amount equals the net worth of the co-partnership as of June 30, 1960.

At the hearing, applicant corporation requested that this application be amended so as to include a request for authorization to issue shares of stock equal in amount to the increase in the net worth of the co-partnership during the period June 30, 1960 to December 31, 1960. Such increase totaled \$38,592.37, and on the basis of \$100 stated value per share, the amendment would provide for the issuance of 385 additional shares of stock.

The co-partnership operates as a petroleum irregular route carrier under authority granted by Decision No. 44369, dated June 20, 1950, in Application No. 31067, and under a certificate of public convenience and necessity authorizing it to transport 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 or petroleum products within the State of California in tank trucks or tank trailers under its petroleum irregular route carrier certificate, as granted by Decision No. 61181, dated December 13, 1960, in Application No. 42563.

Authority to transfer the certificate to operate as a petroleum irregular route carrier and the properties utilized in such operation is requested in related Application No. 43329 and is the subject of a separate decision which is being issued concurrently with this decision.

On the basis of the evidence in this proceeding, we find and conclude: (1) that the transfer of the certificate and properties as herein proposed will not be adverse to the public interest, (2) that there will be no change in the rates or other charges now assessed to the public, (3) that the application should be granted as herein provided, and (4) 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.

O 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 highway common carrier operative rights described in Decision No. 61181, issued December 13, 1960, in Application No. 42563. For accounting purposes, a transfer date of December 31, 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 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 for equipment and other net assets represented by the increase in the net worth of the co-partnership during the period of June 30, 1960 to December 31, 1960, may issue not to exceed 385 shares of common stock at a stated value of \$100 per share.

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 6th day of June, 1961.

Conrad W. Pease  
President  
Edwin E. Mitchell  
S. L. Fox  
George L. Grover  
Fredrick B. Hobloff  
Commissioners