

62106

ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
 B & O SERVICE INC., a California
 corporation, to sell and of J. T.
 HUTCHISON and T. R. BELLOMY, a
 copartnership, doing business as
 B & H Service, to purchase a certi-
 ficate of public convenience and
 necessity to operate as a petroleum
 irregular route carrier in the trans-
 portation of petroleum products bet-
 ween various points in the counties of
 Santa Barbara, San Luis Obispo and Mon-
 terey in the State of California pur-
 suant to the provisions of Sections
 851-853 of the California PUBLIC UTILI-
 TIES CODE.

Application No. 43290
(Amended)

O P I N I O N

This application was filed April 5, 1961, and amended May 2, 1961, for an order of the Commission (1) authorizing B & O Service Inc. to transfer its operative rights and properties to J. T. Hutchison and T. R. Bellomy, a copartnership doing business as B & H Service and (2) authorizing J. T. Hutchison and T. R. Bellomy to issue a note in the principal amount of \$16,500.

B & O Service, Inc., is a petroleum irregular route carrier in the vicinity of Santa Barbara, San Luis Obispo and Monterey Counties operating under a certificate of public convenience and necessity acquired by Decision No. 58916 in Application No. 41122 dated August 25, 1959. The certificate was originally granted by Decision No. 50472 dated August 24, 1954, in Application No. 35452.

The amended application shows that B & O Service, Inc., proposes to transfer equipment at a book cost of \$17,750 plus the business as a petroleum irregular route carrier for a sum of \$18,000. The amount of the selling price assigned to the certificate is \$250.

The agreement of sale provides that J. T. Hutchison and T. R. Bellomy shall pay \$1,500 upon transfer of the title leaving a balance of \$16,500 to be paid in installments of \$400.00 per month plus 6% interest per annum, commencing June 15, 1961. No note or evidence of indebtedness, aside from the agreement of sale, will be executed.

The income statement of B & O Service, Inc., for the fiscal year ending September 30, 1960, shows a net income before taxes from operations of \$38,359.92.

A balance sheet of J. T. Hutchison and T. R. Bellomy as of February 28, 1961, shows a net worth of \$35,616.26.

It appears that there will be no change in the rates or services as the result of the transfer. The Commission finds and concludes that such transfer will not be adverse to the public interest and that the money, property or labor to be procured or paid for by the long-term indebtedness 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. On the basis of these findings an order will be entered granting the application.

The action taken herein shall not be construed to be a finding of the value of the operative rights or properties herein authorized to be transferred. J. T. Hutchison and T. R. Bellomy are 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 cancelled 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

Amended application having been filed and the Commission having considered all the allegations thereof and being of the opinion that a public hearing is not necessary; therefore,

IT IS ORDERED:

1. That within one hundred twenty days after the effective date hereof, B & O Service, Inc., may sell and transfer and J. T. Hutchison and T. R. Bellomy may purchase and acquire the certificate of public convenience and necessity acquired by Decision No. 58916, dated August 25, 1959, in Application No. 41122 and its equipment under the terms set forth in this application.

2. That J. T. Hutchison and T. R. Bellomy in acquiring said certificate and equipment, may assume the payment of the long-term indebtedness, as set forth in the amended application, for the purpose and under the terms referred to in the preceding opinion.

3. That within thirty days after the consummation of the transfer herein authorized, J. T. Hutchison and T. R. Bellomy 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.

4. 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 supplement or reissue the tariffs on file with the Commission naming rates, rules and regulations governing the petroleum irregular route carrier operations here involved to show B & O Service, Inc., has withdrawn or canceled and J. T. Hutchison and T. R. Bellomy, have adopted or established, as

their 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.

5. That J. T. Hutchison and T. R. Bellomy 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.

6. That this order shall become effective when J. T. Hutchison and T. R. Bellomy have paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.

Dated at San Francisco, California, this 6th day of June, 1961.

[Signature]
President

[Signature]

[Signature]

[Signature]
Commissioners

