

**ORIGINAL**Decision No. 62867

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 L. A. "MIKE" SCHAGER, to sell and )  
 E. E. FAIRBANKS and D. E. FAIRBANKS, )  
 a copartnership, to purchase, )  
 certificate of public convenience )  
 and necessity to operate as a )  
 petroleum irregular route carrier. )

Application No. 43843

OPINION AND ORDER

L. A. Schager requests authority to sell and transfer and E. E. Fairbanks and D. E. Fairbanks request authority to purchase and acquire certain petroleum irregular route operative rights and equipment.

The operative rights were created by Decision No. 50951 dated January 4, 1955, in Application No. 35895. They now are possessed by L. A. Schager, an individual, pursuant to a transfer authorized by Decision No. 54873 dated April 22, 1957, in Application No. 38942. The agreement, a copy of which is attached to the instant application, calls for the transfer of said rights and six units of equipment for a consideration of \$15,500, payable \$4,400 in cash, and the balance in three equal annual installments, plus interest at 6 percent per annum. No value is placed upon the operative rights. As of June 30, 1961, applicant buyers indicated a net worth amounting to \$15,388.32.

After consideration, the Commission finds and concludes that the proposed transfer would not be adverse to the public interest; that the applicant buyers have the necessary financial ability to continue the service; that the money, property or labor

to be procured or paid for by the issue of the note herein authorized is reasonably required for the purposes specified herein, and that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. The authorization herein granted shall not be construed as a finding of the value of the rights and equipment nor as a determination that the amounts referred to herein will be accepted as proper bases for an order authorizing the issue of securities. A public hearing is not necessary.

E. E. Fairbanks and D. E. Fairbanks 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 canceled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

Application having been filed and the Commission being informed in the premises,

IT IS ORDERED:

1. That, on or before February 1, 1962, L. A. Schager is hereby authorized to transfer and sell and E. E. Fairbanks and D. E. Fairbanks are authorized to purchase and acquire the operative rights granted by Decision No. 50951 in Application No. 35895 as well as the equipment referred to in the application.

2. That, within thirty days after the consummation of the transfer herein authorized, purchasers shall notify the Commission,

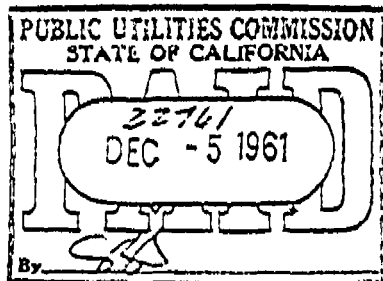
in writing, of that fact and within said period shall file with the Commission a true copy of any bill of sale or other instrument of transfer which may be executed to effect said transfer.

3. That, on not less than five days' notice to the Commission and to the public, applicants shall, effective concurrently with the consummation of such transfer, 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 L. A. Schager has withdrawn or canceled, and E. E. Fairbanks and D. E. Fairbanks 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.

4. After the effective date hereof, E. E. Fairbanks and D. E. Fairbanks may incur indebtedness in the principal amount of not to exceed \$11,100 for the purposes and in the manner specified in this application.

The authority herein granted to incur indebtedness will become effective when applicants have paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$25.00. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this  
29th day of NOVEMBER, 1961.



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Commissioners

Commissioner Peter E. Mitchell, being necessarily absent, did not participate in the disposition of this proceeding.