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ORIGINAL

Decision No. _____

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of FRANK G. SILVA to sell and of RICHARDS TRUCKING to purchase a Certificate of Public Convenience and Necessity to operate as a petroleum irregular route carrier in the transportation of petroleum products between various points in the State of California; and to issue 4,500 shares of its \$10 par value capital stock.

Application No. 43850
Filed October 19, 1961

O P I N I O N

This is an application for an order of the Commission (1) authorizing Frank G. Silva, doing business as Richards Trucking Company, to sell and transfer his petroleum irregular route carrier certificate of public convenience and necessity, together with revenue equipment and other assets, to Richards Trucking, a corporation, and (2) authorizing said corporation (a) to issue and sell \$45,000 par value of its capital stock, and (b) to issue two promissory notes in the aggregate principal amount of \$29,400.

Frank G. Silva operates as a public utility under the jurisdiction of this Commission as a statewide petroleum irregular route carrier pursuant to a certificate of public convenience and necessity acquired under authority granted by Decision No. 57121, dated August 5, 1958, in Application No. 40198. Richards Trucking is a California corporation organized on or

about June 26, 1961, primarily to engage in the business of transporting petroleum products by motor vehicle.

The application shows that Frank G. Silva desires to retire from business, and that Readymix Concrete Company, Ltd. has caused the formation of Richards Trucking, a corporation, for the purpose of acquiring Silva's operative rights, together with certain of his equipment and other assets, and of continuing the operations. The total purchase price is \$70,000, no part of which is assigned to the operative rights, of which \$20,300 is payable as a cash down payment, with the balance of \$49,700 to be represented by three unsecured promissory notes bearing interest at the rate of 5 per cent per annum and due March 1, 1962, March 1, 1963 and March 1, 1964, in amounts of \$20,300, \$20,300 and \$9,100, respectively. Richards Trucking, a corporation, proposes to issue \$45,000 par value of its capital stock to Readymix Concrete Company, Ltd. for (1) the \$20,300 cash down payment, (2) the \$20,300 needed to pay the principal amount of the note due March 1, 1962, and (3) obtaining \$4,400 of working capital.

It appears that there will be neither a change in the rates, nor any material changes in the nature or scope of the operations as the result of the transfer. Also, it appears that the present value of the equipment to be transferred is in excess of the \$70,000 purchase price.

Upon reviewing the verified application we find and conclude (1) that the proposed transfer will not be adverse to the public interest; (2) that the proposed \$20,300 note due March 1, 1962, being payable not more than 12 months after its date, may be issued without authorization by this Commission; (3) that the proposed stock and long-term note issues are for proper purposes; (4) that the money, property or labor to be procured or paid for by the issue of the stock and notes herein authorized is reasonably required for the purposes specified herein; and (5) that such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we will enter an order granting the application.

Richards Trucking, a corporation, is hereby placed on notice that operative rights, as such, do not constitute a class of business 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. 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.

The action taken herein shall not be construed to be a finding of the value of the rights and properties 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, and that the application should be granted, therefore,

IT IS ORDERED that -

1. Frank G. Silva, on or after the effective date hereof and on or before March 31, 1962, may sell and transfer to Richards Trucking, a corporation, his petroleum irregular route carrier certificate of public convenience and necessity, equipment and other assets, as set forth in this application. For accounting purposes said transfer may be made as of March 1, 1961.

2. Frank G. Silva and Richards Trucking, a corporation, may enter into an agreement for sale of assets in the same form, or substantially in the same form, as that attached to the application as Exhibit A.

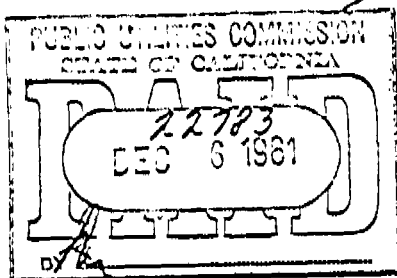
3. Richards Trucking, a corporation, on or after the effective date hereof and on or before March 31, 1962, may issue and sell not to exceed \$45,000 par value of its capital stock, and may issue two unsecured promissory notes bearing interest at the rate of not to exceed 5 per cent per annum and due March 1, 1963, and March 1, 1964, in principal amounts of not to exceed \$20,300 and \$9,100, respectively, all for the purposes specified in this proceeding.

4. 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 Frank G. Silva, doing business as Richards Trucking Company, has withdrawn or canceled and Richards Trucking, 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.

5. Richards Trucking, 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.

6. This order shall become effective when Richards Trucking, a corporation, has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$30, or 20 days after the date hereof, whichever shall occur last.

Dated at Los Angeles, California,
this ✓ 26 day of December, 1961.



[Signature]
President
[Signature]
George L. Gower
Frederick B. Hubloff