

**ORIGINAL**

Decision No. 63496

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

(a) LEONARD TANK LINES, INC., a corporation, to purchase, and of STEPHEN LEONARD, an individual, doing business as LEONARD TANK LINES and VALLEY OIL COMPANY, to sell, a certificate of public convenience and necessity as a petroleum irregular route carrier, pursuant to Sections 851-853 of the California Public Utilities Code.

(b) LEONARD TANK LINES, INC., a corporation, to issue and sell shares of its capital stock, pursuant to Sections 816-830 of the California Public Utilities Code.

Application No. 44261  
Filed March 13, 1962

O P I N I O N

This is an application for an order of the Commission (1) authorizing Stephen Leonard to sell and transfer his petroleum irregular route carrier certificate of public convenience and necessity, together with revenue equipment and other assets, to Leonard Tank Lines, Inc., and (2) authorizing said corporation to issue \$150,000 par value of its capital stock.

Stephen Leonard, doing business as Leonard Tank Lines, operates as a public utility under the jurisdiction of this Commission as a statewide petroleum irregular route carrier pursuant to the certificate of public convenience and necessity granted to him by Decision No. 44205, dated May 23, 1950, in

Application No. 31173. For the first nine months of 1961 he reports gross revenues amounting to \$229,628, and a net profit of \$24,894, which reflects also his operations as Valley Oil Company.

The application shows that Stephen Leonard desires to transfer his transportation and related operations to a corporation, and to this end on or about December 18, 1961, he caused to be formed Leonard Tank Lines, Inc., a California corporation. In addition to operative rights, Stephen Leonard proposes to transfer to said corporation his equipment and other related assets and liabilities in exchange for \$150,000 par value of said corporation's capital stock. He proposes to retain his real property, but would lease to said corporation at a rental of \$800 per month the portions needed in the carrier business. A pro forma balance sheet of Leonard Tank Lines, Inc., as of September 30, 1961, giving effect to the proposed transfer and stock issue is summarized as follows:

Assets

Cash	\$ 21,866
Accounts receivable	168,728
Inventories	60,603
Special deposits	725
Equipment	51,946
Prepaid expenses	6,028
Drums	<u>1,123</u>
Total	<u>\$311,019</u>

Liabilities

Accounts payable	\$110,567
Notes payable	32,873
Accrued expenses	3,451
Capital stock	150,000
Capital surplus	<u>14,128</u>
Total	<u>\$311,019</u>

According to the application, the fair market value of the properties to be transferred equals or exceeds their book value, which is the value used for the purpose of the transfer, and no portion of the purchase price is being paid for operative rights.

It appears that there will be no change in the rates, service or management as the result of the transfer, and that the same equipment, facilities and other assets will be available to the public.

Upon reviewing the verified application we find and conclude that (1) the proposed transfer will not be adverse to the public interest; (2) the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein; and (3) such purpose is 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.

Leonard Tank Lines, Inc., 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. Stephen Leonard, on or after the effective date hereof and on or before July 31, 1962, may sell and transfer, and Leonard Tank Lines, Inc., may purchase and acquire the certificate of public convenience and necessity granted by Decision No. 44205, dated May 23, 1950, in Application No. 31173, together with the revenue equipment and other assets referred to in the application; provided, however, that the authority herein granted is subject to the condition that the public utility property withheld by Stephen Leonard from transfer to Leonard Tank Lines, Inc., is not relieved from its devotion to the public use and that its status as public utility operative property shall continue.

2. Leonard Tank Lines, Inc., on or after the effective date hereof and on or before July 31, 1962, in payment for said assets may assume outstanding indebtedness and may issue not to exceed \$150,000 par value of its capital stock.


3. Within thirty days after the consummation of the transfer herein authorized, Leonard Tank Lines, Inc., 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. On not less than thirty 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 Stephen Leonard has withdrawn or canceled, and Leonard Tank Lines, Inc., has adopted or established as its own, said rates, rules and regulations. The tariff filings made pursuant to this order shall comply with the regulations governing the construction and filing of tariffs set forth in the Commission's General Order No. 80.

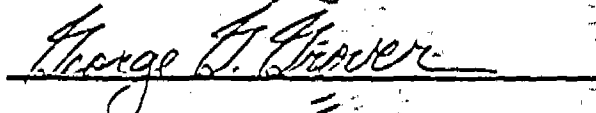
5. Leonard Tank Lines, Inc., shall file with the Commission a report, or reports, as required by General Order No. 24-A, which order, insofar as applicable, is made a part of this order.

6. The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California,  
this 2nd day of APRIL, 1962.

  
President







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Commissioners

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