

**ORIGINAL**

Decision No. 65050

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of BURNELL H. RICHARDS and HOWARD SANDAGE, a partnership, doing business as RICH SAND SERVICE CO.; and RICH SAND SERVICE COMPANY, a California corporation, for authority for the former to transfer, and the latter to acquire, certain operative rights, equipment and other property and for the latter to issue stock and assume certain obligations.

Application No. 45183  
Filed February 15, 1963

O P I N I O N

The application shows that Burnell H. Richards and Howard Sandage, partners doing business as Rich Sand Service Co., are engaged in business in California as petroleum irregular route carriers under certificates of public convenience and necessity acquired by them under authorization granted by Decision No. 59293, dated November 24, 1959, and Decision No. 59368, dated December 8, 1959, and as radial highway common carriers; that said partners now desire to conduct their operations under a corporate form of organization; and that they propose, and seek authorization, to transfer their operative rights and equipment, subject to outstanding liabilities, to Rich Sand Service Company, a corporation they have organized.

In Exhibit D annexed to the application, the partners report, as of August 31, 1962, total investment in assets of \$136,949.12, including current assets of \$48,876.10, outstanding liabilities of \$16,740.40, and proprietary capital of \$120,208.72. In effecting the transfer, it is contemplated that the corporation will issue \$50,000.00 par value of common stock to each of the partners and will credit to paid-in surplus the excess of the net assets to be acquired over the total par value of the stock to be issued. It is reported that the corporation will adopt the rates, rules and regulations of the partners.

We have considered this application and we find that the proposed transfer will not be adverse to the public interest; that the money, property or labor to be procured or paid for by the issue of the shares 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. A public hearing is not necessary. We will enter an order granting the application.

In making this order we place Rich Sand Service Company, a corporation, 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 holders 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 operative rights and assets to be transferred. So far as the rights are concerned, the authorization herein granted is for the transfer of only the certificates of public convenience and necessity now held by Burnell H. Richards and Howard Sandage. A separate application must be filed for the transfer of the radial highway common carrier operative rights.

O R D E R

IT IS ORDERED that:

1. On or before June 30, 1963, Burnell H. Richards and Howard Sandage, may sell and transfer, and Rich Sand Service Company, a corporation, may purchase and acquire, the certificates of public convenience and necessity acquired by Burnell H. Richards and Howard Sandage under authorization granted by Decision No. 59293, dated November 24, 1959, and Decision No. 59368, dated December 8, 1959, together with the assets as set forth in this application.

2. Rich Sand Service Company, a corporation, for the purpose of acquiring said certificates and assets, may assume the payment of outstanding indebtedness and may issue not to exceed 1,000 shares of its \$100 par value common stock.

3. Within thirty days after the consummation of the transfer herein authorized Rich Sand Service Company, a corporation, 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. Applicants shall 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 Rich Sand Service Company, a corporation, has adopted or established, as its own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the consummation of the transfer herein authorized. 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-A.

5. Rich Sand Service Company, 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. The authority herein granted shall become effective ten days after the date hereof.

Dated at San Francisco, California,  
this 12<sup>th</sup> day of MARCH, 1963.

George G. Hoover  
President

Carl W. [unclear]

Fredrick B. Holcomb

William W. Bennett  
Commissioners