

**ORIGINAL**Decision No. 68918

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:  
P. R. McCUTCHEN, INC., a corporation,  
to sell, and JAMES F. NIKOLAUS and  
DENNIS NIKOLAUS, a copartnership,  
doing business as NIKOLAUS  
TRANSPORTATION CO., to Purchase, a  
certificate of public convenience  
and necessity to operate as a high-  
way common carrier in the transpor-  
tation of petroleum and petroleum  
products within the State of  
California.

Application No. 47323  
(Filed February 9, 1965)

O P I N I O N

This is an application for an order of the Commission authorizing P. R. McCutchen, Inc., a California corporation (McCutchen), to sell to James F. Nikolaus and Dennis Nikolaus, a copartnership doing business as Nikolaus Transportation Co. (Nikolaus), certain automotive equipment and a certificate of public convenience and necessity authorizing operations as a highway common carrier of petroleum and petroleum products.

McCutchen now operates as a highway common carrier of petroleum and petroleum products pursuant to a certificate of public convenience and necessity granted by Decision No. 42623 in Application No. 29725 and transferred to it by Decision No. 44600, as amended and supplemented by Decision No. 65470, in Application No. 31551. It proposes to sell to Nikolaus said operative authority, all goodwill associated with its petroleum carriage business and one truck equipped with a 3750-gallon capacity tank and one pull trailer equipped with a 4500-gallon capacity tank for the total sum of \$14,000, payable in cash upon the effective date of the order of the Commission authorizing the transfer.

Nikolaus is a new partnership formed expressly for the purpose of conducting operations of transporting petroleum products in bulk. The partners are engaged in mining and in sale of construction materials. Financial statements attached to the application show that the partners had a net worth of \$158,000 on October 31, 1964. The application states that, although the partners have not engaged in for-hire carriage, they have had experience in the transportation of petroleum and petroleum products as proprietary operators.

McCutchen has had the automotive equipment appraised at a value of \$6,200. Nikolaus proposes to assign that portion of the purchase price being paid which is over said appraised value of the equipment to goodwill.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest. A public hearing is not necessary. The application should be granted.

#### O R D E R

IT IS ORDERED that:

1. On or before October 31, 1965, P. R. McCutchen, Inc., may sell and transfer, and James F. Nikolaus and Dennis Nikolaus may purchase and acquire, the operative rights and property referred to in the application.
2. Within thirty days after the consummation of the transfer herein authorized, James F. Nikolaus and Dennis Nikolaus 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. James F. Nikolaus and Dennis Nikolaus shall amend or reissue the tariffs on file with the Commission, naming rates, rules and regulations governing the common carrier operations herein to show that they have adopted or established, as their own, said rates, rules and regulations. The tariff filings shall be made effective not earlier than thirty days after the effective date of this order on not less than thirty 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.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, James F. Nikolaus and Dennis Nikolaus shall cause to be filed with the Commission, in such form as it may prescribe, an annual report, or reports, covering the period commencing with the first day of the current year to and including the effective date of the transfer.

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

Dated at San Francisco, California, this 20<sup>th</sup> day of April, 1965.

Frederick B. Holbrook  
President  
John E. McMillen  
George H. Grover  
Augusta  
William L. Bennett  
Commissioners