

Decision No. 69369**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 the distributees on liquidation of )  
 RUBER TRANSPORTATION, INC., for )  
 authority to transfer certain )  
 operative rights as a petroleum )  
 irregular route carrier; and of )  
 ARMOUR OIL COMPANY to acquire such )  
 operating rights, all pursuant to )  
 Section 851 of the California Public )  
 Utilities Code. )

Application No. 47464  
 (Filed April 1, 1965)

O P I N I O N

Ruber Transportation, Inc., a California corporation, holds a certificate of public convenience and necessity authorizing operations as a petroleum irregular route carrier. It proposes to sell said operative right to Armour Oil Company, a California corporation, for the sum of \$2,500. No protests to the granting of this application have been received.

Armour has been and is now engaged in the business of selling and delivering petroleum products for its own account to large commercial, industrial and governmental consumers of fuel oil, diesel oil, and other petroleum products. It also makes sales and deliveries at wholesale to retailers of petroleum products. In its California business it owns and operates eight tank trucks and trailers and one tank semitrailer. Financial statements attached to the application disclose that Armour is financially able to conduct the petroleum irregular route common carrier operations.

Ruber desires to be relieved of any and all obligation to render service under its certificate and intends to discontinue all for-hire carrier operations.

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

In issuing certificates, where it appears that there is an affiliation between carrier and shipper by reason of common ownership, management or control, the Commission specifies that not less than the applicable tariff rates shall be paid by such carrier to subhaulers engaged to carry property of the affiliated company or the property of the affiliated company's customers or suppliers.

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

Armour Oil Company is 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.

O R D E R

IT IS ORDERED that:

1. On or before September 1, 1965, Ruber Transportation, Inc., may sell and transfer, and Armour Oil Company may purchase and acquire, the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Armour Oil Company 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. Armour Oil Company 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 it has adopted or established, as its 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 to 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 consummation of the transfer as herein authorized, Armour Oil Company 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.

5. Whenever Armour Oil Company engages other carriers for the transportation of its property or the property of its customers or suppliers, it shall not pay such carriers less than 100 percent

of its applicable tariff rates and charges for the transportation actually performed by such other carriers.

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

Dated at San Francisco, California, this 7th day of JULY, 1965.

Frederick B. Kelluff  
President

John E. Ritzell

George T. Grover

Avogator

William W. Bennett  
Commissioners