

ORIGINAL

Decision No. 70491

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CONSUMERS TRANSPORTATION CORPORATION,)
a California corporation, for a)
Certificate of Public Convenience)
and Necessity to operate service as)
a petroleum irregular route carrier)
over all public highways and)
between all points and places in)
the State of California.)

Application No. 31227
(Filed December 2, 1965)

In the matter of the Application of)
CONSUMERS TRANSPORTATION CORPORATION,)
a California corporation, to sell)
and transfer,)

and of

A. W. HAYS TRUCKING, INC., a)
California corporation, to purchase)
and acquire the operative rights of)
CONSUMERS TRANSPORTATION CORPORA-)
TION, a California corporation,)
conducted under and pursuant to)
Decision No. 44392, dated 20 June)
1950, in Application No. 31227.)

Application No. 48232
(Filed February 7, 1966)

O P I N I O N

Applicant Consumers is the holder of a petroleum irregular route carrier certificate. This operative right was created in 1950 by Decision No. 44392 in Application No. 31227. It authorizes the transportation of petroleum and petroleum products in bulk between all points and places in the State.

Applicant Hays, a carrier domiciled in Woodland, Yolo County, holds a cement carrier certificate and radial highway common, contract and city carrier permits. Its financial statement, attached to the application reveals that its financial resources are thoroughly adequate for the purposes of this application.

Consumers desires to sell its certificate to Hays for \$200, to be payable in cash upon authorization of the requested transfer by this Commission.

On November 9, 1965 the Commission, by Decision No. 69938 in Application No. 31227, conditionally revoked consumers' certificate because the required tariff was not on file. However, a written request for a public hearing was filed by Consumers before the effective date of that decision, thus meeting the condition and staying the order of revocation.

The Commission finds that:

1. A public hearing is not necessary.
2. A. W. Hays Trucking, Inc. has the financial resources, experience, facilities, equipment and personnel to transport petroleum and petroleum products.
3. The transfer proposed in the application would not be adverse to the public interest.
4. The order of revocation contained in Decision No. 69938 should be vacated.

The Commission concludes that:

1. The sought transfer should be granted.
2. The present operating authority of Consumers Transportation Corporation should be revoked.
3. A certificate of public convenience and necessity as a petroleum irregular route carrier should be granted to A. W. Hays Trucking, Inc. as provided by the following order.

A. W. Hays Trucking, Inc. 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.

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

O R D E R

IT IS ORDERED that:

1. On or before July 1, 1966, Consumers Transportation Corporation may sell and transfer, and A. W. Hays Trucking, Inc., may purchase and acquire, the petroleum irregular route carrier certificate of public convenience and necessity referred to in the application, in accordance with the terms set forth in the application, but subject to the terms of this order.

2. Within thirty days after the consummation of the transfer herein authorized, A. W. Hays Trucking, 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.

3. A. W. Hays Trucking, Inc. shall file tariffs with the Commission, naming rates and rules governing the petroleum irregular route carrier operations herein. 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, A. W. Hays Trucking, Inc. shall cause to be filed with the Commission, in such form as the Commission may prescribe, an annual report, or reports related to the operations of the seller for the period commencing with the first day of the current year to and including the effective date of the transfer.

5. Concurrently with the effective date of the tariff filings required by ordering paragraph 3 hereof, Decision No. 69938, dated November 9, 1965, in Application No. 31227, is hereby vacated.

6. Concurrently with the effective date of the tariff filings required by ordering paragraph 3 hereof, the operative right granted by Decision No. 44392, dated June 20, 1950, in Application No. 31227 is hereby revoked and, in place and stead thereof, a certificate of public convenience and necessity to operate as a petroleum irregular route carrier is hereby granted to A. W. Hays Trucking, Inc. as

particularly set forth in Appendix A attached hereto and hereby made a part hereof.

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

Dated at San Francisco, California, this 29th day of MARCH, 1966.

Frederick B. Holcomb
President

John E. Mitchell

George T. Grover

Augustus

William W. Bennett
Commissioners

A. W. Hays Trucking, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a petroleum irregular route carrier for the transportation of petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 70491, Application No. 48232.