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ORIGINAL

Decision No. 72139

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
AIRWAY'S TANK LINE, a corporation,)
to sell, and of LUBRICATION COMPANY)
OF AMERICA, a corporation, to pur-)
chase, a Certificate of Public)
Convenience and Necessity authoriz-)
ing the transportation of petroleum)
products, in bulk, with certain)
restrictions, between various points)
and places in Santa Barbara, Ventura,)
Los Angeles, Orange, Riverside,)
San Diego, Imperial, Kern and Inyo)
Counties, California, pursuant to)
Sections 851-853 of the California)
Public Utilities Code.)

Application No. 49092
(Filed January 18, 1967)

O P I N I O N

Airway's Tank Line, a corporation, requests authority to sell certain certificated authority and equipment to Lubrication Company of America.

The operative right was granted by Decision No. 43161 dated July 26, 1949, in Application No. 30028 and authorizes the transportation of petroleum products in bulk, with certain exceptions, between various points and places in Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Diego, Imperial, Kern and Inyo Counties. The equipment consists of three tractors and four tank trailers. The agreed cash consideration is \$22,000. A value of \$500 has been placed upon the certificate, the balance represents the fair market value of the equipment. As of September 30, 1966, applicant purchaser indicated a net worth in the amount of \$127,173.13.

Copies of the application were served upon forty of the carriers serving the area covered by the certificate. These are carriers with which applicant purchaser is most likely to compete.

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Because there are approximately 150 petroleum carriers serving within the State and because of the expense and burden involved, deviation from Rule 29(a) of the Rules of Procedure is requested.

Lubrication Company of America is engaged in the business of buying, selling and distributing lubricating oils and allied products. Therefore, the operating authority will be restricted so that whenever the applicant employs other carriers for the transportation of property of Lubrication Company of America or its customers or suppliers, such other carriers will be paid rates and charges not less than the rates and charges published in the applicant's tariffs filed with this Commission.

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

Lubrication Company of America 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 August 1, 1967, Airway's Tank Line may sell and transfer, and Lubrication Company of America 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, Lubrication Company of America 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. Lubrication Company of America shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that it has adopted or established, as its own, said rates and rules. 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, Lubrication Company of America 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.

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5. Applicants are hereby authorized to deviate from Rule 29(a) of the Commission's Rules of Procedure.

6. Whenever Lubrication Company of America, a corporation, engages other carriers for the transportation of property of Lubrication Company of America, a corporation, or customers or suppliers of said corporation, Lubrication Company of America shall not pay such other carriers rates and charges less than rates and charges published in Lubrication Company of America's tariffs on file with this Commission.

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

Dated at San Francisco, California, this 14th day of MARCH, 1967.

[Signature]
President
[Signature]
[Signature]
[Signature]
Commissioners