

ORIGINALDecision No. 73536

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of MERRILL E. ERSKINE, an
individual, doing business as
ROMAR TANK LINE, to transfer and
of RICHARD J. SISNEROS, an
individual, doing business as
AL-RICH TANK LINES, to acquire
a certificate of public convenience
and necessity and to operate as an
irregular route petroleum carrier;
and request for tariff publication
authority.

Application No. 49747
(Filed October 20, 1967)

O P I N I O N

By this application, Merrill E. Erskine, an individual doing business as Romar Tank Line, hereinafter referred to as seller, seeks authority to sell and transfer his petroleum irregular route carrier certificate of public convenience and necessity to Richard J. Sisneros, an individual doing business as Al-Rich Tank Lines, hereinafter referred to as buyer.

The certificate was acquired by seller pursuant to Decision No. 53350, dated July 10, 1956, in Application No. 37930. The certificate authorizes transportation of petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California. The rights are also reflected in a certificate of registration issued by the Interstate Commerce Commission in Docket No. MC-120999. The total purchase price is \$5,000, of which \$4,500 is allocated to the certificate of public convenience and necessity and \$500 is allocated to the certificate of registration. The application alleges that the

agreed price is less than the original cost of establishing the authorities. There are no protests.

The application states that buyer is a newly formed business, maintaining his principal place of business at Santa Fe Springs, California. Buyer has been connected with transportation activities relative to the movement of petroleum and petroleum products in intrastate and interstate commerce for the past eight years. Exhibit "A", attached to the application, is a copy of buyer's balance sheet as of September 30, 1967. It discloses total assets of \$38,600 and liabilities of \$2,500.

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

Richard J. Sisneros, doing business as Al-Rich Tank Lines, 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 herein authorized to be transferred.

O R D E R

IT IS ORDERED that:

1. On or before April 1, 1968, Merrill E. Erskine, doing business as Romar Tank Line, may sell and transfer, and Richard J.

Sisneros, doing business as Al-Rich Tank Lines, may purchase and acquire, the operative rights referred to in the application.

2. Within thirty days after the consummation of the transfer herein authorized, Richard J. Sisneros, doing business as Al-Rich Tank Lines, shall notify the Commission, in writing, of that fact and within said period shall file with the Commission a true copy of any instrument of transfer which may be executed to effect said transfer.

3. Richard J. Sisneros, doing business as Al-Rich Tank Lines, shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations herein to show that he has adopted or established, as his own, said rates and rules. 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. Failure to comply with and observe the provisions of General Order No. 80-A may result in a cancellation of the operating authority granted by this decision.

4. On or before the end of the third month after the consummation of the transfer as herein authorized, Richard J. Sisneros, doing business as Al-Rich Tank Lines, 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

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of the seller for 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
27 day of DECEMBER 1967.

Carl E. Bunker
President

Augustine
William M. Bennett
John P. Monsey
Commissioners

Commissioner William M. Bennett, being necessarily absent, did not participate in the disposition of this proceeding.