

ORIGINAL

Decision No. 73597

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of)
))
KYLE O. MAYES AND JIMMIE C. MAYES,)
))
Co-Partners, dba Kyle O. Mayes)
))
Co. to transfer, and Kyle O.)
))
Mayes, Inc., a California)
))
corporation, to acquire,)
))
))
A CERTIFICATE OF PUBLIC)
CONVENIENCE AND NECESSITY TO)
OPERATE AS A PETROLEUM IRREGULAR)
ROUTE CARRIER BETWEEN ALL POINTS)
AND PLACES IN LOS ANGELES AND)
ORANGE COUNTIES, PURSUANT TO)
SECTION 1061-73 INCLUSIVE OF THE)
PUBLIC UTILITIES CODE, AND FOR)
THE LATTER TO ISSUE STOCK.)

Application No. 49871
Filed December 7, 1967

O P I N I O N

This is an application for an order of the Commission
(1) authorizing Kyle O. Mayes and Jimmie C. Mayes, doing
business as Kyle O. Mayes Co., to sell and transfer their
petroleum irregular route carrier certificate of public con-
venience and necessity, together with certain related assets,
to Kyle O. Mayes Co., Inc. and (2) authorizing the latter,
in acquiring said assets, subject to certain liabilities, to
issue 500 shares of its \$10 par value capital stock.

Pursuant to authority granted by Decision No. 51413, dated May 3, 1955, in Application No. 35922, the partners acquired a certificate of public convenience and necessity to operate as a petroleum irregular route carrier in Los Angeles and Orange Counties. Operations are also conducted under permits issued by the Commission.

The application shows that, in addition to the operations authorized by said certificate and permits, the partners perform substantial grading, excavating and dirt hauling operations. They desire to dissolve the partnership and to transfer that portion of the partnership assets and liabilities which pertains to the operations authorized by said certificate and permits to Kyle O. Mayes Co., Inc., a California corporation organized on or about September 18, 1967.

A pro forma balance sheet, giving effect to the proposed transactions as of September 30, 1967, is set forth in Exhibit B, attached to the application, as follows:

<u>Assets</u>	
Cash in bank	\$ 5,000.00
Accounts receivable	17,388.04
Deposit	100.00
Carrier equipment (trucks)	<u>13,212.91</u>
Total	<u>\$35,700.95</u>
<u>Liabilities</u>	
Accounts payable	\$16,772.12
Note due stockholders	8,928.83
Paid-in surplus	5,000.00
Capital stock	<u>5,000.00</u>
Total	<u>\$35,700.95</u>

The Commission has considered this matter and finds that: (1) the proposed transactions will not be adverse to the public interest; (2) the money, property or labor to be procured or paid for by the issue of the stock herein authorized is reasonably required for the purpose specified herein; and (3) such purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income. On the basis of these findings we conclude that the application should be granted. A public hearing is not necessary.

The action taken herein shall not be construed as a finding of the value of the properties to be transferred. So far as the rights are concerned the authorization herein granted is for the transfer of the petroleum irregular route carrier certificate of public convenience and necessity only. Any transfer of permitted operative rights must be the subject of a separate application or applications.

The order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by Kyle O. Mayes and Jimmie C. Mayes, doing business as Kyle O. Mayes Co., and the issuance of a certificate in appendix form to Kyle O. Mayes Co., Inc.

Kyle O. Mayes Co., 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 as a petroleum irregular route carrier. 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 after the date hereof and on or before June 30, 1968, Kyle O. Mayes and Jimmie C. Mayes may sell and transfer, and Kyle O. Mayes Co., Inc. may purchase and acquire, the petroleum irregular route carrier certificate of public convenience and necessity and related assets referred to in this proceeding.
2. Kyle O. Mayes Co., Inc. may assume the liabilities referred to in the application and, for the purpose specified in this proceeding, may issue and sell not exceeding 500 shares of its \$10 par value capital stock.
3. Kyle O. Mayes Co., Inc. shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is hereby made a part of this order.
4. Within thirty days after the consummation of the transfer herein authorized, Kyle O. Mayes Co., 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.

5. Kyle O. Mayes Co., Inc. shall amend or reissue the tariffs on file with the Commission naming rates and rules governing the petroleum irregular route 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 ten days after the 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.

6. On or before the end of the third month after the consummation of the transfer as herein authorized, Kyle O. Mayes Co., 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 sellers for the period commencing with the first day of the current year to and including the effective date of transfer.

7. In the event the transfer authorized in Paragraph No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Kyle O. Mayes Co., Inc. authorizing it to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, and as provided in Appendix A attached hereto and made a part hereof.

8. The certificate of public convenience and necessity granted in Paragraph No. 7 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 51413, which certificate is revoked effective concurrently with the effective date of the tariff filings required by Ordering Paragraph No. 5 hereof.

9. In providing service pursuant to the certificate herein granted, Kyle O. Mayes Co., Inc. shall comply with and observe the following service regulations. Failure so to do may result in a cancellation of the operating authority granted by this decision.

- a. Within thirty days after the date hereof, Kyle O. Mayes Co., Inc. shall file a written acceptance of the certificate herein granted. Kyle O. Mayes Co., Inc. is placed on notice that, if it accepts the certificate of public convenience and necessity herein granted, it will be required, among other things, to comply with and observe the safety rules of the California Highway Patrol and the insurance requirements of the Commission's General Order No. 100-D.
- b. Kyle O. Mayes Co., Inc. shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

10. The effective date of this order is the date hereof.

Dated at San Francisco, California,
this 9th day of JANUARY, 1968.

[Signature]
President

[Signature]

[Signature]

[Signature]

[Signature]
Commissioners

Kyle O. Mayes Co., 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 vacuum tank trucks between all points and places within the Counties of Los Angeles and Orange.

(End of Appendix A)

Issued by California Public Utilities Commission.

Decision No. 73597, Application No. 49871.