

ORIGINAL

Decision No. 73716

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of L. L. Kirchhof, an individual
doing business under the firm
name and style of Speed's Oil
Tool Service, to transfer assets,

and

Speed's Oil Tool Service, a
California corporation, for
authority to acquire assets,
assume liabilities and to operate
a Highway Common Carrier Service.

Application No. 49911
(Filed December 29, 1967)

O P I N I O N

L. L. Kirchhof, doing business as Speed's Oil Tool Service, requests authority to transfer, and Speed's Oil Tool Service, Inc., a corporation, requests authority to acquire, certain property and operating authority.

The operative right was granted by Decision No. 44381 and acquired by applicant seller by Decision No. 49772, dated March 9, 1954, in Application No. 35065. The certificate authorizes state-wide operations as a petroleum irregular route carrier.

It is alleged that applicant buyer is a newly formed corporation, of which applicant seller is president. As of January 1, 1967, applicant buyer indicated a net worth in the amount of \$127,230.

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

In instances 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 sub-haulers engaged to carry property of the affiliated company or the property of the affiliated company's customers or suppliers. The order herein will so provide.

Speed's Oil Tool Service, 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.

ORDER

IT IS ORDERED that:

1. On or before September 1, 1968, L. L. Kirchhof may sell and transfer, and Speed's Oil Tool Service, Inc., 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, Speed's Oil Tool Service, 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. Speed's Oil Tool Service, Inc. 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. 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, Speed's Oil Tool Service, 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. Whenever L. L. Kirchhof or Speed's Oil Tool Service, Inc. engages other carriers for the transportation of property of L. L. Kirchhof or Speed's Oil Tool Service, Inc., or customers or suppliers of said individual or corporation, L. L. Kirchhof or Speed's Oil Tool Service, Inc. shall not pay such other carriers less than the

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rates and charges published in the tariffs of L. L. Kirchhof or Speed's Oil Tool Service, Inc., on file with the Commission 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 14th day of FEBRUARY, 1968.

Robert E. Buehler President
William J. ...
August ...
William J. ...
Paul P. ... Commissioners