

Decision No. 74203**ORIGINAL**

## BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 M. FRIIS-HANSEN & CO., INC., a )  
 corporation, to sell, and ARMAND H. )  
 KUNDE, an individual, doing business )  
 as DIAMOND TANK LINES, to purchase, )  
 certificates of public convenience )  
 and necessity authorizing the )  
 transportation of petroleum products )  
 in bulk in tanker equipment. )

Application No. 50149  
 (Filed April 8, 1968)

O P I N I O N

M. Friis-Hansen & Co., Inc., seller, is a California corporation. It possesses two certificates. One, under Decision No. 42623 in Application No. 29711, is a highway common carrier certificate. It authorizes service to almost all points in the State north of Los Angeles. The commodities authorized are petroleum products in bulk, except those requiring pressurized or insulated tanks. Decision No. 44373, in Application No. 31050, granted seller a petroleum irregular route carrier certificate. This certificate authorized statewide service rights for products requiring pressurized or insulated tanks. In the case of those products not requiring such equipment, it authorized service to all points not previously granted by Decision No. 42623.

These certificates were granted to the predecessor partnership operating under the same name without the "Inc." Decision No. 50151, in Application No. 35496, authorized transfer of these operating rights to the applicant. In December 1967, at the request of applicant, its rights were suspended for one year.

The application alleges that buyer is experienced in the field of bulk petroleum transportation. He has served for ten years past as the General Manager of a common carrier in this field. He has some equipment and the financial resources to buy more, if needed.

The Friis-Hansen organization proposes to retire from the field of petroleum transport.

The Commission is of the opinion that the application should be granted. The method of grant will be to revoke the present certificated rights and restate them in appendix form in the name of the buyer.

The Commission finds that:

1. The transfer proposed in Application No. 50149 is not adverse to the public interest.
2. Armand H. Kunde has the financial resources, facilities, equipment, and personnel to transport petroleum products in bulk between all points in California.
3. Public convenience and necessity require that certificates be granted to Armand H. Kunde to transport property as a highway common carrier and petroleum irregular route carrier as described in Appendix A attached hereto and made a part hereof.
4. A public hearing is not necessary.

The Commission concludes that:

1. The sought transfer should be granted.
2. The present operating authority of M. Friis-Hansen & Co., Inc., should be revoked upon consummation of the transfer.
3. Certificates of public convenience and necessity as a highway common carrier and petroleum irregular route carrier should be granted to Armand H. Kunde as provided by the following order.

Armand H. Kunde 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. Resolution No. R-183, dated December 19, 1967, of this Commission suspending operative rights of M. Friis-Hansen & Co., Inc., is rescinded concurrently with the effective date of the tariff filings required by ordering paragraph 4 hereof.
2. On or before October 1, 1968, M. Friis-Hansen & Co., Inc., may sell and transfer, and Armand H. Kunde may purchase and acquire, the certificates of public convenience and necessity referred to in the application, in accordance with the terms set forth in the agreement attached to the application as Exhibit C, but subject to the terms of this order.
3. Within thirty days after the consummation of the transfer herein authorized, Armand H. Kunde 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.

4. Armand H. Kunde 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 preparation 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.

5. On or before the end of the third month after the consummation of the transfer as herein authorized, Armand H. Kunde 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.

6. Concurrently with the effective date of the tariff filings required by ordering paragraph 4 hereof, the operative rights granted to M. Friis-Hansen & Co., Inc., by Decision No. 42623 in Application No. 29711 and Decision No. 44373 in Application

No. 31050 and acquired by Decision No. 50151 in Application No. 35496 are revoked and, in place and stead thereof, certificates of public convenience and necessity to operate as a highway common carrier and petroleum irregular route carrier are granted to Armand H. Kunde, between the points and over the routes particularly set forth in Appendix A, attached hereto and made a part hereof.

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

Dated at San Francisco, California, this 5<sup>th</sup> day of JUNE, 1968.

*Edmund E. Mitchell*  
President  
*William L. Beane*  
*August*  
*William Francis Jr*

Commissioners

Commissioner Fred P. Morrissey, being necessarily absent, did not participate in the disposition of this proceeding.

(A) Armand H. Kunde, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to operate as a highway common carrier for the transportation of petroleum products, in bulk, except liquefied petroleum gases and any other petroleum products requiring pressurized tanks and except liquid asphalt and hot road oils and any other petroleum products requiring insulated tanks, upon and along the following described routes, including all intermediate points, with the right to make lateral departures therefrom within a radius of fifty (50) miles of said routes:

1. U.S. 101 and U.S. 101 By-Pass between Oregon-California State Line and Los Angeles;
2. U.S. 99, 99-E, and 99-W between Oregon-California State Line and Los Angeles;
3. U.S. 299 between Redding and Alturas;
4. U.S. 395 between the Oregon-California State Line and the California-Nevada State Line, via Alturas and Johnstonville;
5. State Highway 36 between Junction 99-E near Red Bluff and Junction U.S. 395 at Johnstonville;
6. State Highway 20 between Marysville and Junction U.S. 40;
7. U.S. 40 between San Francisco and California-Nevada State Line;
8. U.S. 50 between Sacramento and California-Nevada State Line;
9. U.S. 395 between California-Nevada State Line at Topaz Lake and Junction U.S. 66;

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10. U.S. 66 between Los Angeles and Barstow;
11. U.S. 91 and 466 between Barstow and Nevada-California State Line; and
12. State Highway 127 between Baker and Nevada-California State Line.

(B) Armand H. Kunde, 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 (1) liquefied petroleum gases and any other petroleum products requiring pressurized tanks, and liquid asphalts and hot road oils and other petroleum products requiring insulated tanks between all points and places within the State of California; and (2) all other petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California, except the points and places authorized to be served by him as a highway common carrier as described in paragraph (A) hereof.

END OF APPENDIX A

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