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**ORIGINAL**

Decision No. 74560

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of:

J. LEE ROGERS, an individual,  
to sell, and

GERARD L. LAMY, an individual, dba

PETROLEUM PRODUCTS TRANSPORTATION,  
to purchase, certificate of public  
convenience and necessity authorizing  
the transportation of Petroleum  
Products in bulk in tank truck and  
trailer equipment.

Application No. 50315  
(Filed June 14, 1968)

O P I N I O N

This is an application by J. Lee Rogers, an individual, (hereinafter referred to as Rogers) to sell, and Gerard L. Lamy, an individual, doing business as Petroleum Products Transportation (hereinafter referred to as Petroleum Products), to purchase a certificate of public convenience and necessity authorizing operations as a petroleum irregular route carrier for the transportation of petroleum products in tank trucks and trailers between all points and places in California.

Rogers was authorized to operate as a petroleum irregular route carrier by Decision No. 44386, dated June 20, 1950. This authority was suspended by Resolution No. R-155, dated February 7, 1967, until further order of the Commission.

The application relates that Rogers has retired from transportation of petroleum products and that Petroleum Products desires to carry on such transportation in the future. The application further relates that Petroleum Products has full knowledge of the technicalities of hauling petroleum products and also full knowledge of the Commission's Safety Rules and Regulations. Petroleum Products has three tank trucks and three tank trailers. It has total assets of \$51,907.

The agreed purchase price is \$500. No other assets of Rogers are concerned in this sale.

Service of this application was made upon the California Trucking Association. Notice of the application was published in the Commission's Daily Calendar on June 17, 1968. No protests have been filed. Petroleum Products requests that the effective date of the Commission's order be the date such order is issued, and that tariff publication be made on less than five days' notice.

After consideration, the Commission finds as follows:

1. A public hearing is not necessary.
2. The transfer and sale of Rogers' operating authority would not be adverse to the public interest.

The Commission concludes that the application should be granted as provided by the order which follows.

Petroleum Products 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, these rights extend to the holder a full or partial monopoly of a class of business. 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 before October 15, 1968, J. Lee Rogers may sell and transfer, and Gerard L. Lamy 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, Gerard L. Lamy 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. Gerard L. Lamy 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 he has adopted or established, as his own, said rates and rules. The tariff filings shall be made effective not earlier than five days after the effective date of this order on not less than five 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, Gerard L. Lamy 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. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Gerard L. Lamy, authorizing him to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, between the points particularly set forth in Appendix A attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted in paragraph 5 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 44386, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. In providing service pursuant to the certificate herein granted, applicant 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 effective date hereof, applicant shall file a written acceptance of the certificate herein granted. Applicant is placed on notice that, if he accepts the certificate of public convenience and necessity herein granted, he 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) Applicant shall maintain his 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 his operations in such form, content, and number of copies as the Commission, from time to time, shall prescribe.

The effective date of this order shall be the date hereof.

Dated at San Francisco, California, this 20<sup>th</sup>  
day of AUGUST, 1968.

William Symons, Jr.  
President  
Ed. E. Rydholm  
Stellman C. Beard  
Augustin  
Commissioners

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

Gerard L. Lamy, an individual, by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to transport petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California.

Issued by California Public Utilities Commission.

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