

ORIGINAL

Decision No. 75068

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of ERNEST ELLINGTON and VINCENT BELLOUMINI, dba MARVIN BARNETT VACUUM TRUCK SERVICE to transfer assets and liabilities and a petroleum irregular route carrier Certificate

and

Application No. 50596
(Filed October 8, 1968)

VINCENT BELLOUMINI, IRA W. HUNT and J. B. CANTRELL, dba BARNETT VACUUM TRUCK SERVICE, to acquire assets and certain liabilities and operate a petroleum irregular route carrier Certificate of Public Convenience and Necessity.

O P I N I O N

Ernest Ellington and Vincent Belloumini, a partnership doing business as Marvin Barnett Vacuum Truck Service (transferors), seek authority to transfer, and Vincent Belloumini, Ira W. Hunt and J. B. Cantrell, a partnership doing business as Barnett Vacuum Truck Service (transferees), seek authority to acquire, a petroleum irregular route carrier certificate of public convenience and necessity, together with other assets of the transferors. Transferees also seek authority under Section 830 of the Public Utilities Code to assume certain liabilities. Applicants seek authority to deviate from Rule 37 of the Commission's Rules of Procedure, which requires service of the application upon all competing carriers.

The operative right sought to be transferred was acquired by transferors pursuant to Decision No. 66189, dated October 22, 1963, in Application No. 45694. It authorizes the transportation of petroleum and petroleum products in vacuum-type tank trucks and

tank trailers over irregular routes between all points and places within a radius of 20 air miles in all directions from the city limits of the City of Fillmore, including the City of Fillmore.

The application contains a copy of the partnership liquidation agreement of transferors; a statement of the assets and liabilities of transferors as of the date of the aforesaid agreement; and a copy of the partnership agreement of transferees.

Transferees request authority to assume certain liabilities and obligations of transferors, as set forth in the partnership agreement of transferees. Transferees will acquire all of the operating equipment and other operating property of transferors, including seven units of vacuum-tank equipment, two pickup trucks, ✓ fuel tanks, office equipment, and spare parts.

A balance sheet as of June 30, 1968 attached to the application indicates that transferees on that date had assets of \$101,924 and a net worth of \$70,099.

The application was listed on the Commission's Daily Calendar of October 9, 1968. No protest has been received.

After consideration, the Commission finds that:

1. The proposed transactions would not be adverse to the public interest.

2. Insofar as the transfer is concerned, applicants should be permitted to deviate from Rule 37 of the Commission's Rules of Procedure.

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 operative rights and other assets herein

authorized to be transferred, nor as indicative of amounts to be included in proceedings for the determination of just and reasonable rates. 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 certificate acquired by transferors will be revoked and an in lieu certificate will be issued to transferees as set forth in Appendix A attached hereto.

O R D E R

IT IS ORDERED that:

1. On or after the effective date hereof and on or before February 1, 1969, Ernest Ellington and Vincent Belloumini may sell and transfer, and Vincent Belloumini, Ira W. Hunt and J. B. Cantrell, may acquire, the petroleum irregular route carrier certificate of public convenience and necessity and the other assets referred to in the application.

2. Vincent Belloumini, Ira W. Hunt and J. B. Cantrell, on or after the date hereof and on or before February 1, 1969, for the purpose specified in this proceeding, may assume the liabilities referred to in the application herein.

3. Within thirty days after the consummation of the transfer herein authorized, Vincent Belloumini, Ira W. Hunt, and J. B. Cantrell 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. Vincent Belloumini, Ira W. Hunt and J. B. Cantrell 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 they have adopted or established, as their 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.

5. Concurrently with the effective date of tariff filings required by Ordering Paragraph 4 hereof, the operative rights acquired by Ernest Ellington and Vincent Belloumini pursuant to Decision No. 66189 are hereby revoked and, in place and stead thereof, a certificate of public convenience and necessity to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, is hereby granted to Vincent Belloumini, Ira W. Hunt and J. B. Cantrell as particularly set forth in Appendix A hereto.

6. In providing service pursuant to the certificate herein granted, Vincent Belloumini, Ira W. Hunt and J. B. Cantrell 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, applicants shall file a written acceptance of the certificate herein granted. Applicants are placed on notice that, if they accept the certificate of public convenience and necessity herein granted, they 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-E.
- (b) Applicants shall maintain their 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 their 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 twenty days after the date hereof.

Dated at San Francisco, California, this 10th day of DECEMBER, 1968.

William A. Quinn, Jr.
President

Augustin

Fred P. Monness
Commissioners

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

Appendix A

VINCENT BELLOUMINI
IRA W. HUNT and J. B. CANTRELL
doing business as BARNETT VACUUM
TRUCK SERVICE

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Vincent Belloumini, Ira W. Hunt and J. B. Cantrell, by the certificate of public convenience and necessity granted by the decision noted in the margin, are authorized to transport petroleum and petroleum products in bulk in tank trucks or tank trailers equipped with vacuum-type or pump-type equipment as follows:

1. Between all points and places within a radius of 20 air miles in all directions from the city limits of the City of Fillmore, over irregular routes.
2. Within the City of Fillmore, and between said City and points described in paragraph 1, over irregular routes.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 75068, Application No. 50596.