

ORIGINAL

Decision No. 75181

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of LEON B. OGLESBY doing)	
business as OGLESBY BROS. to transfer,)	
and of OGLESBY BROS. PETROLEUM)	
TRANSPORTATION, INC., to acquire a)	
certificate of public convenience)	Application No. 50729
and necessity and related assets and)	Filed December 6, 1968
of OGLESBY BROS. PETROLEUM)	
TRANSPORTATION, INC., to issue)	
securities.)	
)	

O P I N I O N

This is an application for an order of the Commission (1) authorizing Leon B. Oglesby, doing business as Oglesby Bros., to transfer his petroleum irregular route carrier certificate of public convenience and necessity, together with related assets, to Oglesby Bros. Petroleum Transportation, Inc., and (2) authorizing the latter, in acquiring said assets, subject to liabilities, to issue 4,000 shares of its \$10 par value capital stock.

Leon B. Oglesby, doing business as Oglesby Bros., operates as a petroleum irregular route carrier under the certificate of public convenience and necessity acquired pursuant to authority granted by Decision No. 67604, dated July 28, 1964, in Application No. 46699. In addition he performs permitted

carrier operations subject to the jurisdiction of this Commission. As of September 30, 1968, the carrier reports total assets of \$56,168, offset by current liabilities and capital in the respective amounts of \$16,168 and \$40,000. No value is assigned to the operative rights.

In exchange for \$40,000 aggregate par value of its capital stock, Oglesby Bros. Petroleum Transportation, Inc., a California corporation organized on or about October 9, 1968, proposes to acquire the assets, subject to liabilities, of Leon B. Oglesby, doing business as Oglesby Bros.

After consideration the Commission finds that: (1) the proposed transfer would 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 Leon B. Oglesby, doing business as Oglesby Bros., and the issuance of a certificate in appendix form to Oglesby Bros. Petroleum Transportation, Inc.

Oglesby Bros. Petroleum Transportation, 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, 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 after the date hereof and on or before

April 30, 1969, Leon B. Oglesby may sell and transfer, and Oglesby Bros. Petroleum Transportation, Inc. may purchase and acquire, the petroleum irregular route carrier certificate of public convenience and necessity and related assets referred to in the application. The sale and transfer may be made effective as of October 10, 1968, for accounting purposes.

2. Oglesby Bros. Petroleum Transportation, Inc., for the purpose specified in this proceeding, may issue and sell not exceeding 4,000 shares of its \$10 par value capital stock.

3. Oglesby Bros. Petroleum Transportation, 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, Oglesby Bros. Petroleum Transportation, 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. Oglesby Bros. Petroleum Transportation, 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, Oglesby Bros. Petroleum Transportation, 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 transferor for the period from January 1, 1963, to October 10, 1963, the effective date of the transfer for accounting purposes.

7. In the event the transfer authorized in Paragraph No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Oglesby Bros. Petroleum Transportation, 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 acquired pursuant to authority granted by Decision No. 67604, 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, Oglesby Bros. Petroleum Transportation, 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, Oglesby Bros. Petroleum Transportation, Inc. shall file a written acceptance of the certificate herein granted. Oglesby Bros. Petroleum Transportation, 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-E.
- (b) Oglesby Bros. Petroleum Transportation, 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 7th day of JANUARY, 1969.

William S. ...
President

Augustus

Fred P. Monahan

Commissioners

Oglesby Bros. Petroleum Transportation, Inc., by the certificate of public convenience and necessity granted by 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 tank trucks and tank trailers between all points and places in the State of California north of a due east-west line drawn through Long Beach, and south of a due east-west line drawn through Eureka.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 75181, Application No. 50729.