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ORIGINAL

Decision No. 76588

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
Edith L. Buchanan, Administratrix )  
of the Estate of Andrew M. Buchanan, )  
to transfer a petroleum irregular )  
route certificate to Olvin J. )  
Buchanan. )

Application No. 51474  
(Filed November 10, 1969)

O P I N I O N

Edith L. Buchanan, as administratrix of the Estate of Andrew M. Buchanan, requests authority to sell and transfer and Olvin J. Buchanan requests authority to purchase and acquire a certificate of public convenience and necessity authorizing operations as a petroleum irregular route carrier and certain specified property.

The certificate was granted by Decision No. 44389 dated June 20, 1950, in Application No. 31230 and authorizes the transportation of petroleum and petroleum products between all points within the State.

Edith L. Buchanan is the widow of Andrew M. Buchanan and wishes to transfer the trucking operations, including operating authority and equipment, to her son Olvin J. Buchanan for the inventory price fixed by the inheritance tax appraiser, namely, \$18,004.66 to be paid as follows: \$1,250 to be paid in cash and the balance of \$16,754.66 to be secured by a promissory note to be paid in monthly installments of \$175 or more including interest at the rate of 6 percent per annum on the unpaid balance.

It is alleged that Olvin J. Buchanan had assisted his father in the business operations for the past 15 years. As of October 1, 1969, Olvin J. Buchanan indicated a net worth in the amount of \$9,645.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and that the money, property or labor to be procured or paid for by the issue of the note herein authorized is reasonably required for the purposes specified herein, and such purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income. A public hearing is not necessary.

The authorization herein granted shall not be construed as a finding of the value of the rights and properties herein authorized to be transferred.

Olvin J. Buchanan 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. 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 August 1, 1970, Edith L. Buchanan, Administratrix of the Estate of Andrew M. Buchanan, may sell and transfer, and Olvin J. Buchanan 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, purchaser 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. Purchaser 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 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, purchaser 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. Within thirty days after the transfer herein authorized is consummated, purchaser shall file a written acceptance of the certificate. Purchaser is placed on notice that, if he accepts such certificate, 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-E.

6. Purchaser 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.

7. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, he shall make the appropriate tariff filings as required by the General Order.

8. After the effective date hereof, for the purposes specified in the application, Olvin J. Buchanan may issue a promissory note in the principal amount of not exceeding \$16,754.66, which note shall be in the same form, or in substantially the same form, as that attached to the application.

9. Olvin J. Buchanan 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.

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The authority herein granted to issue a note will become effective when Olvin J. Buchanan has paid the minimum fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$50. In other respects the effective date of this order shall be twenty days after the date hereof. ~~San Francisco~~

Dated at \_\_\_\_\_, California, this 23rd  
day of DECEMBER, 1969.

William J. Lyons, Jr.  
President

August

Olvin J. Buchanan

Thomas W. ...

Vernon L. ...  
Commissioners

