

ORIGINAL

Decision No. 77337

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application  
of L. M. PEPPER, an individual,  
doing business as Pepper Oil Com-  
pany, to sell, and EXCLUSIVE  
TRANSPORTATION CORP., a corpora-  
tion, to purchase certificate of  
public convenience and necessity  
for the transportation of petro-  
leum products, and to issue  
securities. )

Application No. 51847  
(Filed April 27, 1970)

O P I N I O N

L. M. Pepper, an individual doing business as Pepper Oil Company, requests authority to sell and transfer, and Exclusive Transportation Corp. requests authority to purchase and acquire certain property, including a certificate of public convenience and necessity authorizing the transportation of petroleum products. Applicant purchaser also requests authority to issue 100 shares of its no par value capital stock.

The certificate was acquired by the seller by Decision No. 71491, dated November 1, 1966, in Application No. 48804. The transfer includes all of the assets, operating equipment and good will of applicant seller in consideration of the 100 shares of stock to be issued to applicant seller, who is also president of applicant purchaser.

Applicant purchaser was incorporated on April 2, 1970, and as of said date indicated a net worth in the amount of \$2,218.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and that the property to be procured or paid for by the issue of the stock 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 order which follows will provide for, in the event the transfer is consummated, the revocation of the certificate presently held by L. M. Pepper, an individual doing business as Pepper Oil Company, and the issuance of a certificate in appendix form to Exclusive Transportation Corp. (a corporation).

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

Exclusive Transportation Corp. 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.

O R D E R

IT IS ORDERED that:

1. On or before December 1, 1970, L. M. Pepper may sell and transfer, and Exclusive Transportation Corp. 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 it has adopted or established as its 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. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Exclusive Transportation Corp. authorizing it to operate as a petroleum irregular route carrier as defined in Section 214 of

the Public Utilities Code between all points and places in the State of California as particularly set forth in Appendix A attached hereto and made a part hereof.

6. The certificate of public convenience and necessity granted by paragraph 5 of this order shall supersede the certificate of public convenience and necessity acquired by the seller by Decision No. 71491, dated November 1, 1966, in Application No. 48804, which certificate is revoked effective concurrently with the tariff filings required by paragraph 3 hereof.

7. 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 it accepts such certificate, 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.

8. Purchaser 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.

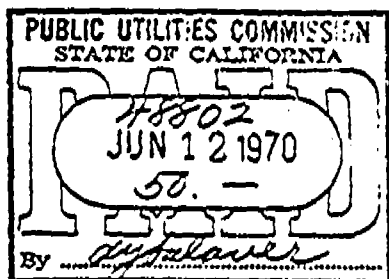
9. Purchaser shall comply with the requirements of the Commission's General Order No. 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

10. Purchaser is authorized to issue 100 shares of its no par value capital stock.

11. Purchaser shall file with the Commission a report, or reports, as required by General Order No. 24-B, which order, insofar as applicable, is made a part of this order.

12. The authority herein granted to issue stock will become effective when purchaser has paid the fee prescribed by Section 1904.1 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.

Dated at San Francisco, California, this 9th  
day of JUNE, 1970.



William S. Lyons Jr.  
President  
Augustus  
J. M. Harrison Jr.  
Sam M. M...  
Vernon L. Sturgeon  
Commissioners

Exclusive Transportation Corp., a corporation, by the certificate of public convenience and necessity granted by the decision noted in the margin is authorized to conduct operations as a petroleum irregular route carrier of petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California.

End of Appendix A

Issued by California Public Utilities Commission.

Decision No. 77337, Application No. 51847.