

ORIGINAL

Decision No. 77835

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application
of: RAYMOND H. JOHNSON, an
individual doing business under
the fictitious name of PEARCE
TANK LINE, to sell, and of STEVEN
P. CARR, JR., an individual
intending to do business under
the fictitious name of Pearce
Tank Line, to purchase, a petrol-
eum irregular route certificate
authorizing the transportation of
petroleum products, in bulk,
between all points and places in
the State of California, pursuant
to Sections 851-853 of the
California Public Utilities Code.

Application No. 52076
(Filed July 28, 1970)

O P I N I O N

Raymond H. Johnson has applied herein to sell and Steven P. Carr, Jr., to purchase, a petroleum irregular route certificate and the business conducted thereunder as Pearce Tank Line. Applicants have mailed copies of their application to the principal offices of the California Trucking Association and 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 granted by Decision No. 44470, dated June 27, 1950, on Application No. 31162, and ultimately transferred to Johnson by Decision No. 62556, dated September 12, 1961, on Application No. 43662. Johnson presently participates in various tariffs which Carr proposes to adopt. A copy of the sales agreement is attached to the application. It provides for payment of \$500 for the

certificate and goodwill of the business and \$10,500 for motor vehicle equipment, spare parts and supplies, a total of \$11,000; with \$7,000 payable as a down payment and the remainder to be paid in \$500 monthly installments.

A balance sheet as of June 1, 1970 attached to the application indicates that transferee on that date had assets of \$47,400 and a net worth of \$25,400.

It is alleged that the transferee has had ten years' experience as an employee of a petroleum carrier; that he has worked in various capacities and is familiar with all phases of the petroleum operation.

The application was listed on the Commission's Daily Calendar of July 29, 1970. 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.

Steven P. Carr, Jr., 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.

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

The certificate acquired by transferor will be revoked and an in-lieu certificate will be issued to transferee as set forth in Appendix A attached hereto.

O R D E R

IT IS ORDERED that:

1. On or before November 15, 1970, Raymond H. Johnson may sell and transfer, and Steven P. Carr, Jr., 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, unless seller continues operations under a certificate or under a permit with revenues requiring the filing of an annual report on the operations retained.

5. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Steven P. Carr, Jr., authorizing him to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, between the points and over the routes 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 acquired by Decision No. 62556 dated September 12, 1961 in Application No. 43662, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

7. Within thirty days after the transfer herein authorized is consummated, applicant Carr shall file a written acceptance of the certificate herein granted. Applicant Carr 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-F.

8. Applicant Carr 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.

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

The effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this
20th day of OCTOBER, 1970.

J. P. Martin
Chairman

William J. Lyons

Thomas J. Lyons

James L. Stanger
Commissioners

Commissioner A. W. Gatov, being necessarily absent, did not participate in the disposition of this proceeding.

Steven P. Carr, Jr., an individual, 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 as defined in Section 214 of the Public Utilities Code between all points and places in the State of California.

END OF APPENDIX A

Issued by California Public Utilities Commission.

Decision No. 77835, Application No. 52076