

ORIGINAL

Decision No. 78792

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of Roy L. Johnston, an individual)
doing business under the firm)
name and style of Johnston Vacuum)
Tank Service, to transfer)
petroleum irregular route carrier)
authority,)
and)
Johnston Vacuum Tank Service, a)
California corporation, to)
acquire said operating rights)
and assets, assume liabilities)
and issue capital stock.)

Application No. 52582
Filed April 26, 1971
and Amendment
Filed May 20, 1971

O P I N I O N

Roy L. Johnston, doing business as Johnston Vacuum Tank Service, seeks an order of the Commission authorizing him to transfer his petroleum irregular route carrier certificate of public convenience and necessity and related assets to Johnston Vacuum Tank Service, a corporation, and the latter seeks authority to issue 1,000 shares of its \$100 par value capital stock.

Roy L. Johnston operates as a petroleum irregular route carrier pursuant to a certificate of public convenience and necessity granted by Decision No. 49680, dated February 16, 1954, in Application No. 34800. Operations are also conducted under permits issued by the Commission. A pro forma balance sheet as of December 31, 1970 is summarized from Exhibit B, attached to the amendment to the application, as follows:

Assets

Current assets	\$ 63,729
Carrier property, less depreciation reserves	<u>63,405</u>
Total	<u>\$127,134</u>

Liabilities

Current liabilities	\$ 63
Common stock	100,000
Surplus	<u>27,071</u>
Total	<u>\$127,134</u>

Johnston Vacuum Tank Service is a California corporation incorporated on or about January 2, 1970. In exchange for said certificate and assets, subject to liabilities, the corporation proposes to issue 1,000 shares of its \$100 par value capital stock.

After consideration the Commission finds that:

1. The proposed transfer would not be adverse to the public interest.
2. The proposed stock issue is for a proper purpose.
3. 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, which purpose is not, in whole or in part, reasonably chargeable to operating expenses or to income.

On the basis of the foregoing findings we conclude that the application, as amended, 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 Roy L. Johnston and the issuance of a certificate in appendix form to Johnston Vacuum Tank Service, a corporation.

Johnston Vacuum Tank Service, a corporation, 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. Roy L. Johnston may sell and transfer, and Johnston Vacuum Tank Service, a corporation, may purchase and acquire, the petroleum irregular route carrier certificate of

public convenience and necessity and related assets referred to in the application, as amended. The transfer may be made effective as of January 1, 1971, for accounting purposes.

2. Johnston Vacuum Tank Service, a corporation, on or after the effective date hereof and on or before August 31, 1971, in acquiring said certificate and assets, subject to liabilities, may issue not exceeding 1,000 shares of its \$100 par value capital stock.

3. Johnston Vacuum Tank Service, a corporation, shall file with the Commission a report 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, Johnston Vacuum Tank Service, a corporation, 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. Johnston Vacuum Tank Service, a corporation, 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 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.

6. In the event the transfer authorized in Paragraph No. 1 hereof is consummated, a certificate of public convenience and necessity is granted to Johnston Vacuum Tank Service, a corporation, 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.

7. The certificate of public convenience and necessity granted in Paragraph No. 6 of this order shall supersede the certificate of public convenience and necessity granted to Roy L. Johnston by Decision No. 49680, which certificate is revoked effective concurrently with the effective date of the tariff filings required by Paragraph No. 5 hereof.

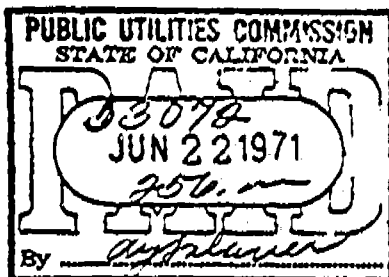
8. Within thirty days after the transfer herein authorized is consummated, Johnston Vacuum Tank Service, a corporation, shall file a written acceptance of the certificate herein granted. Johnston Vacuum Tank Service, a corporation, is placed on notice that, if it accepts the certificate of public convenience 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-F.

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

11. This order shall become effective when Johnston Vacuum Tank Service, a corporation, has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$256.

Dated at San Francisco, California, this 15th day of JUNE, 1971.



[Signature]
Chairman
William J. [Signature]
[Signature]
Vernon L. Sturgeon
[Signature]
Commissioners

Johnston Vacuum Tank Service, a California 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, as defined in Section 214 of the Public Utilities Code, for the transportation of petroleum and petroleum products in pump or vacuum-type trucks and trailers between all points and places within 90 miles of Taft, California, and also to serve customers with headquarters within said radius by operating beyond said area to other points in California, subject to the following restrictions:

1. This certificate of public convenience and necessity is issued subject to obtaining and maintaining a valid registration certificate as a liquid waste hauler from the State Water Resources Control Board.
2. Johnston Vacuum Tank Service, a corporation, shall transport only those shipments which have both origin and destination within two miles of an oil well, well site, or pipeline break, a well site being any location upon which an oil well is about to be constructed, is being constructed, or is completed but is not yet producing.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 78792, Application No. 52582.