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Decision No. 78907

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Application of
 Maudene Clark, Administratrix of the
 Estate of Bob W. Clark, doing business
 as WILCO VACUUM SERVICE & OILFIELD
 VACUUM SERVICE, to transfer, and
 Diversified Chemicals Corp., doing
 business as WILCO TRUCKING DIVISION
 OF DI-CHEM, to acquire a Certificate
 of Public Convenience and Necessity
 as a Petroleum Irregular Route Carrier
 within a radius of sixty miles from
 base of operations.

Application No. 52617
(Filed May 12, 1971)

O P I N I O N

Maudine Clark as Administratrix of the Estate of Bob W. Clark, doing business as Wilco Vacuum Service & Oilfield Vacuum Service, requests authority to sell and transfer, and Diversified Chemicals Corp., doing business as Wilco Trucking Division of Di-Chem, requests authority to purchase and acquire, certain operating equipment and a certificate of public convenience and necessity authorizing operations as a petroleum irregular route carrier.

The certificate was granted by Decision No. 53352, dated July 10, 1956, in Application No. 37767, and authorizes the transportation of petroleum and petroleum products in tank trucks between all points and places within a radius of sixty miles of Taft, California. The agreed consideration for the certificate and operating equipment, including tractors, trailers, compressors and office equipment, is \$100,000 payable as follows: (a) Assumption of outstanding obligations of applicant seller on encumbered assets in the amount of \$8,708.75 and (b) execution of a promissory note in the amount of \$91,291.25 payable in monthly installments of \$1,500 with interest at the rate of 6-3/4 percent per annum on the unpaid balance.

Applicant purchaser is located in Stanton, California, where it is presently engaged in the manufacture and distribution of oil field chemicals and services. As of February 28, 1971, applicant purchaser indicated a net worth in the amount of \$409,358.

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 assumption of obligations and issuance of evidence of indebtedness 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.

Diversified Chemicals 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. 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, 1971, Maudene Clark as Administratrix of the Estate of Bob W. Clark may sell and transfer, and Diversified Chemicals Corp., doing business as Wilco Trucking Division of Di-Chem, 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 end 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 Diversified Chemicals Corp., doing business as Wilco Trucking Division of Di-Chem, authorizing it to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code and 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 granted by Decision No. 53352, 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, purchaser shall file a written acceptance of the

certificate herein granted. Purchaser 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 insurance requirements of the Commission's General Order No. 100-F.

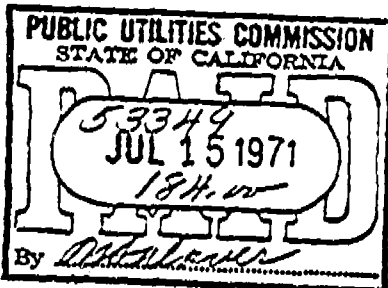
8. Purchaser shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each year, an annual report of its operations 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 may execute evidence of indebtedness in the amount of \$91,291.25.

The authority herein granted to issue a note will become effective when applicant has paid the fee prescribed by Section 1904(b) of the Public Utilities Code, which fee is \$184. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 19th day of JULY, 1971.



William S. ... Chairman
J. P. Vukasin, Jr.
...

Commissioner J. P. Vukasin, Jr., being necessarily absent, did not participate in the disposition of this proceeding.

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

Diversified Chemicals Corp., doing business as Wilco Trucking Division of Di-Chem, 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 vacuum-type tank trucks and tank trailers only, between all points and places within a radius of sixty miles of Taft, California, subject to the following restrictions:

RESTRICTIONS:

1. Whenever Diversified Chemicals Corp. engages other carriers for the transportation of property of Diversified Chemicals Corp., D & T Transportation Corp. or customers or suppliers of said corporations, Diversified Chemicals Corp. shall not pay such other carriers rates and charges less than the rates and charges published in the carrier's tariffs on file with this Commission.
2. 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.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 78907, Application No. 52617.