

ORIGINAL

Decision No. 80768

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the application of)
 LESLIE M. HOLBROOK and RAYMOND R.)
 HOLBROOK, Co-Partners, doing business)
 as HOLBROOK & SON, to sell and)
 H & S VACUUM TRUCK SERVICE, a)
 California corporation, to purchase)
 a highway common carrier operating)
 right for the transportation of)
 property pursuant to Section 851,)
 853 of the California Public)
 Utilities Code.)

Application No. 53601
 (Filed September 21, 1972)

O P I N I O N

This is an application by Leslie M. Holbrook and Raymond R. Holbrook, doing business as Holbrook & Son (hereinafter referred to as Holbrook), and H & S Vacuum Truck Service (hereinafter referred to as H & S) in which applicants seek authority for Holbrook to sell and H & S to acquire Holbrook's certificate of public convenience and necessity to operate as a petroleum irregular route carrier.

Holbrook presently holds a certificate of public convenience and necessity to operate as a petroleum irregular route carrier between all points in the Counties of Los Angeles, Orange, Ventura and Riverside. The verified application alleges that because of the advanced age and ill health of Leslie M. Holbrook and other business interests of Raymond R. Holbrook, Holbrook desires to discontinue its transportation business. The application also indicates that H & S is a newly formed corporation which has not yet engaged in any business activity. However, its shareholders, officers and directors are persons who have engaged in a pumping service and waste disposal business for the past 16 years.

The application discloses that the parties entered into an agreement, subject to approval by this Commission, whereby Holbrook would sell the aforesaid certificate, its radial highway

common carrier permit and goodwill to H & S for \$3,000. The agreement allocates the amount as follows: Certificate of public convenience and necessity, \$1,000; radial highway common carrier permit, \$500 and goodwill, \$1,500.

A copy of the application was served on the California Trucking Association. No protests to the application have been received by the Commission.

The Commission makes the following findings and conclusions.

Findings of Fact

1. A public hearing is not necessary in this matter.
2. The transfer of Holbrook's certificate of public convenience and necessity to operate as a petroleum irregular route carrier to H & S would not be adverse to the public interest.
3. H & S has the ability, including financial ability, to conduct operations under said certificate.
4. To avoid confusion among the shipping public and assist the Commission in the performance of its regulatory functions, the operating rights herein authorized to be transferred should be restated in appendix form.

Conclusions of Law

1. Holbrook should be authorized to sell and transfer its certificate of public convenience and necessity to operate as a petroleum irregular route carrier to H & S.
2. The certificate herein authorized to be transferred should be restated in appendix form.

H & S 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, these 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, 1973, Leslie M. Holbrook and Raymond R. Holbrook may sell and transfer, and H & S Vacuum Truck Service may purchase and acquire, the operative rights 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-Series. Failure to comply with and observe the provisions of General Order No. 80-Series 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 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-Series.

6. 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.

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, it shall make the appropriate tariff filings as required by the General Order.

8. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to H & S Vacuum Truck Service, a corporation, authorizing it to operate as a petroleum irregular route carrier as defined in Section 214 of the Public Utilities Code, as set forth in Appendix A attached hereto and made a part hereof.

9. The certificate of public convenience and necessity granted in paragraph 8 of this order shall supersede the certificate of public convenience and necessity granted by Decision No. 53574, dated

A. 53601 lmm

August 7, 1956, in Application No. 37924, which certificate is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3 hereof.

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

Dated at San Francisco, California, this 5th day of DECEMBER, 1972.

Vernon L. Stinger
President
William J. Lyons
Robert J. Lyons
Thomas Moran
Commissioners

Commissioner Thomas Moran, being necessarily absent, did not participate in the disposition of this proceeding.

H & S Vacuum Truck Service, 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 and pump-type tank trucks or tank trailers only:

To, From and Between any and all points
and places in the Counties of Los Angeles,
Orange, Ventura and Riverside.

RESTRICTION:

Transportation of waste materials under this certificate is subject to obtaining and maintaining a valid registration certificate as a hauler of liquid waste from the State Water Resources Control Board.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision No. 80768, Application No. 53601.