

Decision No. 81166**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 THOMAS NEELEY, an individual doing )  
 business as NEELEY'S VACUUM TRUCK )  
 SERVICE, to sell and transfer to )  
 BENNIE R. REAGEN, an individual )  
 doing business as REAGEN'S VACUUM )  
 TRUCK SERVICE, a petroleum irregular )  
 route certificate. )

Application No. 53779  
 (Filed January 8, 1973)

O P I N I O N

Thomas Neeley, an individual doing business as Neeley's Vacuum Truck Service (Neeley), is authorized to conduct operations as a petroleum irregular route carrier between all points within a fifty-mile radius of Newhall, California, pursuant to a certificate of public convenience and necessity which was granted by Decision No. 51645 dated July 5, 1955 in Application No. 36832. Neeley requests authority, pursuant to Section 851 of the Public Utilities Code, to sell the certificate described above to Bennie R. Reagen, an individual doing business as Reagen's Vacuum Truck Service (Reagen).

Attached to the application as Exhibit A is an agreement between Neeley and Reagen which provides that Neeley will sell the certificate of public convenience and necessity described above together with goodwill and certain motor vehicle and other equipment for the sum of \$16,000.-

The application states that Neeley desires to retire and discontinue operations because of his age and poor health. Reagen has been employed in vacuum truck and oil well operations in California since 1952.

Exhibit B, attached to the application, is a balance sheet of Reagen as of November 10, 1972. It discloses assets of \$44,275.39 offset by liabilities of \$12,759.40 and a net worth of \$31,515.99. There are no protests.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. 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 seller and the issuance of a certificate in appendix form to purchaser.

Bennie R. Reagen 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 July 1, 1973, Thomas Neeley may sell and transfer, and Bennie R. Reagen 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-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. In the event the transfer authorized in paragraph 1 hereof is consummated, a certificate of public convenience and necessity is granted to Bennie R. Reagan, authorizing him to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, between the points 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 granted by Decision No. 51645, 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 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-Series.

8. Purchaser 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. 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, 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 20<sup>th</sup> day of MARCH, 1973.

James L. Sturgeon  
President  
William J. ...  
...  
...  
Commissioners

Appendix A

Bennie R. Reagen  
(an individual)  
doing business as  
REAGEN'S VACUUM TRUCK SERVICE .

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Bennie R. Reagen, dba Reagen'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:

Between all points and places within a radius of  
fifty miles from Newhall, California

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.

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