

ORIGINAL

Decision No. 81995

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of
ARMAND KUNDE, an individual doing
business as DIAMOND TANK LINES, to
transfer, and of DIAMOND TANK LINES
& TRANSPORTATION, INC., a corporation,
to acquire highway common carrier cer-
tificate and other property.

Application No. 54133
(Filed June 27, 1973;
amended July 18, 1973)

O P I N I O N

Armand Kunde, an individual doing business as Diamond Tank Lines, seeks authority to transfer his certificate of public convenience and necessity to operate as a highway common carrier of petroleum products and certain property to Diamond Tank Lines & Transportation, Inc.

On July 18, 1973 applicant amended his application to include the Petroleum Irregular Route Carrier Certificate issued to him. The certificates sought to be transferred were granted to Armand H. Kunde by Decision No. 74203 dated June 5, 1968 in Application No. 50149. The scope of the highway common carrier authority is practically statewide for the transportation of petroleum products, in bulk, except those requiring pressurized or insulated tanks. The scope of the petroleum irregular route carrier certificate authorized statewide service rights for products requiring pressurized or insulated tanks. In the case of those products not requiring such equipment, the certificate authorized service to all points not granted under the highway common carrier certificate.

In addition to the above described certificates, applicant seeks authority to transfer certain operating property referred to in Exhibit "C" of the application.

Purchaser is a California corporation organized February 1, 1973. A certified copy of its Articles of Incorporation have been filed with the Commission. Its officers are: Armand Kunde, President, John Cunningham, Vice President, and Raymond E. Greuel, Secretary-Treasurer.

At its organizational meeting, the minutes of which were furnished subsequent to the filing of the application and are hereby received as Exhibit 1, the Board of Directors of purchaser, Diamond Tank Lines & Transportation, Inc., passed a resolution authorizing and directing the officers of said corporation to sell and issue 12,427 shares of common stock of the corporation at \$1 per share, in exchange for the assets and liabilities of those certain sole proprietorship businesses conducted by Armand Kunde and known as Diamond Transportation Company and Diamond Tank Lines as of January 31, 1973, which assets and liabilities are set forth in balance sheets dated January 31, 1973 which are part of the minutes of the organizational meeting. Said balance sheets show Armand Kunde's net worth in the sole proprietorships as being \$12,426.86 on January 31, 1973.

After consideration the Commission finds that:

1. The proposed transfer is not adverse to the public interest.
2. The money, property, or labor to be procured or paid for by the issue of the stock certificates 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.
3. The proposed transfer of operating rights is reasonably certain not to have a significant effect on the environment.
4. A public hearing is not necessary.

The order which follows will provide for, in the event the transfer is completed, the revocation of the certificates previously held by Armand H. Kunde, an individual, and the issuance of certificates in appendix form to Diamond Tank Lines & Transportation, Inc.

Diamond Tank Lines & Transportation, Inc. is 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 March 31, 1974, Armand H. Kunde, an individual, may sell and transfer the operative rights and property referred to in the application to Diamond Tank Lines & Transportation, Inc.

2. Diamond Tank Lines & Transportation, Inc., may issue certificates representing 12,427 shares of its \$1.00 par value capital stock in exchange for the property referred to in the application.

3. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificates and a true copy of the bill of sale or other instrument of transfer.

4. Purchaser shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the common carrier operations transferred to show that it has adopted or established, as its own, the rates and rules. The tariff filings shall be made effective not earlier than ten days after the effective date of this order on not less than ten days' notice to the Commission and the public, and the effective date of the tariff filings shall be concurrent with the transfer. 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 the provisions of General Order No. 80-Series may result in a cancellation of the operating authorities granted by this decision.

5. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 3, certificates of public convenience and necessity are granted to Diamond Tank Lines & Transportation, Inc., a corporation, authorizing it to operate as a highway common carrier and as a petroleum irregular route carrier, as defined in Sections 213 and 214 of the Public Utilities Code, between the points or over the routes set forth in Appendices A and B, attached hereto and made a part hereof.

6. The certificates of public convenience and necessity granted by Decision No. 74203 are revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

7. Purchaser shall comply with the safety rules of the California Highway Patrol, and insurance requirements of the Commission's General Order No. 100-Series.

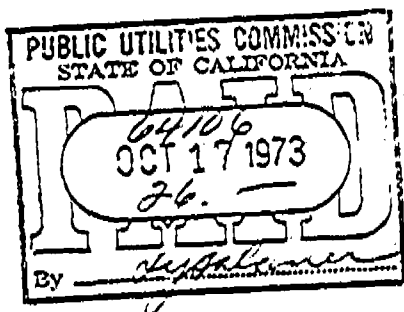
8. Diamond Tank Lines & Transportation, Inc. shall maintain its accounting records on a calendar year basis in conformance with the applicable Uniform System of Accounts or Chart of Accounts as prescribed or adopted by this Commission and shall file with the Commission, on or before March 31 of each 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. The issuer of the securities authorized by this order shall file with the Commission a report, or reports, as required by General Order No. 24-Series.

The authority granted by this order to issue stock will become effective when the issuer has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$26. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at Los Angeles, California, this 16th day of OCTOBER, 1973.



Vernon L. Sturgeon
President
William J. Sproul

[Signature]

Commissioners

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.

Diamond Tank Lines & Transportation, Inc., by the certificate of public convenience and necessity granted in the decision noted in the margin, is authorized to conduct operations as a highway common carrier as defined in Section 213 of the Public Utilities Code for the transportation of:

Petroleum products in bulk, except:

1. Those requiring pressurized or insulated tanks.

Between all points and places on the following routes and all points within 50 miles laterally thereof:

1. U. S. Highway 101 between the Oregon-California State Line and the City of Los Angeles;
2. Interstate Highway 5 between the Oregon-California State Line and Sacramento, and between Wheeler Ridge and the City of Los Angeles;
3. State Highway 99 between Red Bluff and Wheeler Ridge;
4. State Highway 299 between Redding and Alturas;
5. U. S. Highway 395 between the Oregon-California State Line and the California-Nevada State Line, via Alturas and Johnstonville;
6. State Highway 36 between its junction with State Highway 99, near Red Bluff, and its junction with U. S. Highway 395, at Johnstonville;
7. State Highway 20 between Marysville and its junction with Interstate Highway 80;

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8. Interstate Highway 80 between San Francisco and the California-Nevada State Line;
9. U. S. Highway 50 between Sacramento and the California-Nevada State Line;
10. U. S. Highway 395 between the California-Nevada State Line, near Topaz Lake, and its junction with Interstate Highway 15, near Hesperia;
11. U. S. Highway 66 (Interstate Highway 15), between Barstow and the City of Los Angeles;
12. Interstate Highway 15 between Barstow and the California-Nevada State Line; and
13. State Highway 127 between Baker and the California-Nevada State Line.

(END OF APPENDIX A)

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Diamond Tank Lines & Transportation, Inc., 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:

1. Petroleum products requiring pressurized or insulated tanks, between all points and places in the State of California.
2. Petroleum and petroleum products in tank-trucks or tank-trailers between all points and places in the State of California except the points and places described in Appendix A hereof, authorized to be served by it as a highway common carrier.

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 B)

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