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Decision No. 83593

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of  
W. J. HAMILTON, an individual doing  
business as Oil Transport Company,  
to transfer and of OIL TRANSPORT CO.,  
INC., a California corporation, to  
acquire petroleum irregular route  
common carrier certificate.

Application No. 54866  
(Filed May 10, 1974;  
amended August 16, 1974)

O P I N I O N

W. J. Hamilton, doing business as Oil Transport Company, requests authority to sell and transfer, and Oil Transport Co., Inc. requests authority to purchase and acquire, a petroleum irregular route carrier certificate of public convenience and necessity and related assets. The latter, a newly formed corporation, also requests authority to issue not exceeding 14,000 shares of its capital stock (par value \$10 per share) to W. J. Hamilton and to issue to W. J. Hamilton its promissory note for \$80,000 repayable in semiannual installments of \$3,333.33 plus interest on unpaid principal at the rate of 8 percent per annum.

The certificate was granted by Decision No. 44475 dated June 27, 1950 in Application No. 31226. Applicant seller, who is also president of applicant purchaser, proposes to transfer equipment and personal property he now owns and uses in the conduct of his business to the new corporation in consideration for the assumption of equipment obligations and the issuance of a promissory note and stock equivalent to the net book value of said property.

It is alleged that there will be no change in the scope, manner, territory, or conduct of the business of the corporation, as compared to the present business operations; and that applicant seller will continue to manage all business of the applicant purchaser.

There were no protests to the application.

After consideration the Commission finds that the proposed transfer would not be adverse to the public interest and concludes that it should be authorized. We further find with reasonable certainty that the project involved in this proceeding will not have a significant effect on the environment. A public hearing is not necessary. The order which follows will provide for, in the event the transfer is completed, the revocation of the certificate presently held by W. J. Hamilton and the issuance of a certificate in appendix form to Oil Transport Co., Inc.

The proposed security issue is for proper purposes and the money, property, or labor to be procured or paid for by the issue of the security authorized by this decision is reasonably required for the purposes specified, which purposes are not, in whole or in part, reasonably chargeable to operating expenses or to income.

Applicant purchaser is placed on notice that operative rights, as such, do not constitute a class of property which may be capitablized 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 April 1, 1975, W. J. Hamilton may sell and transfer the operative rights and property referred to in the application, as amended, to Oil Transport Co., Inc.
2. Within thirty days after the transfer the purchaser shall file with the Commission written acceptance of the certificate and a true copy of the bill of sale or other instrument of transfer.

3. 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 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 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 authority granted by this decision.

4. 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, a certificate of public convenience and necessity is granted to Oil Transport Co., Inc., a corporation, authorizing it to operate as a petroleum irregular route carrier, as defined in Section 214 of the Public Utilities Code, between the points set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision No. 44475 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

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7. 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.

8. 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.

9. After the effective date hereof Oil Transport Co., Inc. may assume equipment obligations and issue not exceeding 14,000 shares of its capital stock, at par, and its promissory note for \$80,000 to W. J. Hamilton for the purposes set forth in the application.

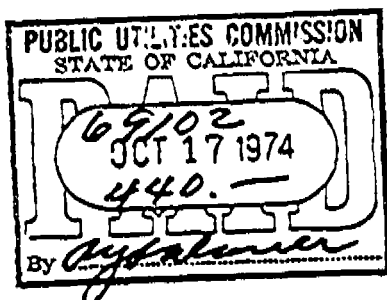
10. The note shall be in substantially the same form as that attached to the amended application as Exhibit D.

11. 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.

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The authority granted by this order to issue stock and a note will become effective when the issuer has paid the fees prescribed by Sections 1904(b) and 1904.1 of the Public Utilities Code, which fees total \$440. In other respects the effective date of this order shall be twenty days after the date hereof.

Dated at San Francisco, California, this 16th  
day of OCTOBER, 1974.



Vernon L. Lutzgen  
President  
William J. Lutzgen  
[Signature]  
[Signature]  
Commissioners

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

Oil Transport Co., Inc., by the certificate of public convenience and necessity granted in 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 tank trucks and tank trailers between all points and places in the State of 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.

Decision No. 83593, Application No. 54866.