

Decision No. 85524**ORIGINAL**

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of DONALD H. JONES,)
 Executor of the Will of ORVILLE)
 K. SMITH, Deceased, to Transfer)
 all Outstanding Stock of SMITH)
 TANK LINES, a California)
 corporation, to FLOYD F. DIRLAM)

Application 56168
 (Filed January 2, 1976)

O P I N I O N

Donald N. Jones, Executor of the Will of Orville K. Smith, Deceased, requests authority to transfer all outstanding stock of Smith Tank Lines, a California corporation, and Floyd F. Dirlam, an individual, requests authority to acquire control of said corporation.

Orville K. Smith died in Fresno, California, on March 5, 1974. The decedent's Will was admitted to probate in the Superior Court of the State of California in and for the County of Fresno, in the Matter of the Estate of Orville K. Smith, Deceased, Fresno County Probate 50829. Donald H. Jones was appointed Executor of decedent's Will on March 27, 1974. Certified copies of the Will of Orville K. Smith and of Letters Testamentary issued to Donald H. Jones are attached to the application as Exhibits "A" and "B".

As of the date of his death, Orville K. Smith owned 384 shares of capital stock, par value \$100.00, of Smith Tank Lines, representing all of the issued and outstanding stock of the corporation. The corporation holds a Certificate of Public Convenience and Necessity granted by Decision 44246, dated May 26, 1950, in Application 31142 and transferred to it by Decision 54721, dated March 26, 1957, in Application 58877. The certificate authorizes transportation, as a petroleum irregular route carrier, of petroleum and petroleum products, in bulk and in tank trucks and trailers between all points and places in the State.

On November 17, 1975, the Superior Court of the State of California in and for the County of Fresno, in the Matter of the Estate of Orville K. Smith, Deceased, Fresno County Probate 50829, entered its Judgment Settling Third and Final Account and Report of Executor and of Final Distribution, a certified copy of which is attached to the application as Exhibit "C". Under the terms of said Judgment all issued and outstanding capital stock of the corporation, now existing, namely, 239.0109 shares, are ordered distributed to Floyd F. Dirlam pursuant to the Will of decedent. After such distribution is completed, Floyd F. Dirlam will be the sole owner of the shares of stock of the corporation and will thus acquire control of the corporation. During the time when the decedent was the sole stockholder of Smith Tank Lines, Floyd F. Dirlam allegedly was, at all times, a director and the Secretary of the corporation and actively managed the corporation's business. After he acquires stock ownership and control of the corporation, Floyd F. Dirlam proposes to continue the operations of the corporation in the same manner as it has been operated in the past.

After consideration the Commission finds that control of Smith Tank Lines, a corporation, by Floyd F. Dirlam would not be adverse to the public interest, and concludes that the application should be granted. A public hearing is not necessary.


O R D E R

IT IS ORDERED that:

1. Floyd F. Dirlam may control Smith Tank Lines, a California corporation.
2. Within ninety days after the date hereof, Floyd F. Dirlam and Smith Tank Lines shall file reports informing the Commission whether or not the stock acquisition has been completed.

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


Dated at San Francisco, California, this 2nd day of March, 1976.


President


William J. Lyons


William J. Lyons


William J. Lyons


Commissioners