

ORIGINAL

Decision No. 85801

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Application of (a) LANG TRANS-)
 PORTATION CORPORATION a Cali-)
 fornia corporation, to transfer)
 its petroleum irregular route)
 certificate of Public Convenience)
 and Necessity; and (b) NIKOLAUS)
 TANK LINES, a California corpora-)
 tion to acquire said Certificate)
 (Public Utilities Code Section)
 851).

Application No. 56260
 (Filed February 6, 1976,
 Amended April 5, 1976)

O P I N I O N

LANG TRANSPORTATION CORPORATION (seller), a California corporation, requests authority to sell and transfer a petroleum irregular route certificate to NIKOLAUS TANK LINES, INC., a California corporation (purchaser). The certificate was granted by Decision 79605, dated January 18, 1972, in Application 52897 and authorizes the transportation of petroleum and petroleum products in bulk in tank highway equipment between all points and places in the State of California.

Pursuant to the Purchase and Sale Agreement entered into by the applicants on December 1, 1975 the consideration for the sale is \$3500 payable upon approval of the sale and transfer by the Commission. Applicant purchaser's balance sheet of November 30, 1975 shows assets of \$4,000 and no liabilities. Purchaser will operate three leased highway vehicles under the certificate to be transferred.

Applicants indicate that the President of Nikolaus Tank Lines, Inc., is also President of Nikolaus Transportation, Inc., and since 1965 has been involved in the management of the latter company's intrastate operations as a petroleum contract carrier and as a highway common carrier of petroleum and petroleum products.

Seller is party to Western Motor Tariff Bureau, Inc., Agent tariff publications. Purchaser proposes to adopt the tariffs. A copy of the application has been forwarded to the California Trucking Association and notice of the filing of the application and its amendment appeared in the Commission's Daily Calendar of February 9 and April 6, 1976, respectively. The applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which requires wide dissemination of the application. The relief is requested in order to acquire just, speedy and inexpensive determination of the issues presented. In support of the application, the applicants allege that the transaction will have no adverse effect on the shipping public or any other carriers. No protests to the application have been received.

After consideration, the Commission finds that the deviation from its Rules of Practice and Procedure should be authorized; that the proposed transfer would not be adverse to the public interest and concludes that they should be authorized and that the effective date of this order should be the date on which it is signed because there is no opposition. 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 Lang Transportation Corporation, and the issuance of a certificate in appendix form to Nikolaus Tank Lines, Inc., a corporation.

The authorization granted shall not be construed as a finding of the value of the rights authorized to be transferred.

Applicant purchaser 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 cancelled 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 November 1, 1976, Lang Transportation Corporation may sell and transfer the operative rights referred to in the application to Nikolaus Tank Lines, Inc., a California corporation.
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' 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 80-Series. Failure to comply with the provisions of General Order 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 Nikolaus Tank Lines, 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 79605 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 100-Series.


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.

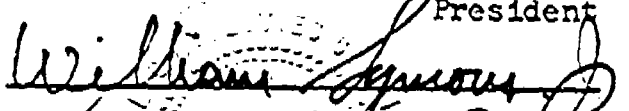



8. Purchaser shall comply with the requirements of the Commission's General Order 84-Series for the transportation of collect on delivery shipments. If purchaser elects not to transport collect on delivery shipments, it shall make the appropriate tariff filings as required by the General Order.

9. Applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent requested in the application.

The effective date of this order is the date hereof.

Dated at San Francisco, California, this 11th day of May, 1976.



President





Commissioners

Nikolaus Tank Lines, Inc., by the certificate of public convenience and necessity granted by the decision noted in the margin, is authorized to operate 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 bulk in tank trucks or tank trailers between all points and places in the State of California, subject to the following restriction:

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 ~~85801~~, Application No. 56260.