

ORIGINAL

Decision No 86440

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the matter of the Applica- )  
 tion of Merlin C. Beck and L. )  
 E. Peabody, a partnership doing )  
 business as B & M Tank Lines, )  
 to transfer, and California and )  
 Western States Ammonia Trans- )  
 port, Inc., a corporation doing )  
 business as California Ammonia )  
 Transport, to acquire a certi- )  
 ficate of public convenience )  
 and necessity to operate as an )  
 irregular route petroleum )  
 carrier. )

Application No. 56630  
 (Filed July 22, 1976)

O P I N I O N

Merlin C. Beck and L. E. Peabody, a partnership, (sellers) request authority to sell and transfer a petroleum irregular route certificate of public convenience and necessity to California and Western States Ammonia Transport, Inc., a California corporation, (purchaser).

The certificate was granted by Decision 82092, dated November 7, 1973. in Application 54318 and authorizes the transportation of petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California. Purchaser presently holds permitted highway carrier operating authority issued by this Commission.

Consideration for the sale is \$10,000 payable in cash upon consummation of the requested transfer. Purchaser's balance sheet of March 31, 1976, shows net worth of \$167,266.23. Purchaser is a wholly owned subsidiary of Bulk Transportation, a California corporation, which presently holds a cement carrier certificate and highway carrier permits.

Sellers are 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 appeared in the Commission's Daily Calendar of July 23, 1976. The applicants request relief from the provisions of the Commission's Rules of Practice and Procedure which require 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 and that the proposed transfer would not be adverse to the public interest and concludes that they should be authorized.

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 Merlin C. Beck and L. E. Peabody, a partnership, and the issuance of a certificate in appendix form to California and Western States Ammonia Transport, Inc., a corporation. The certificate will include an alter ego restriction to reflect the affiliation between purchaser and Bulk Transportation.

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 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 February 1, 1977, Merlin C. Beck and L. E. Peabody, may sell and transfer the operative rights referred to in the application to California and Western States Ammonia Transport, 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 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 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 California and Western States Ammonia Transport, Inc., a California corporation, authorizing it to operate as a petroleum irregular route carrier as defined in Section 214 of the Public Utilities Code, in the area set forth in Appendix A, attached hereto and made a part hereof.

5. The certificate of public convenience and necessity granted by Decision 82092 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 April 30 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 shall be twenty days after the date hereof.

Dated at San Francisco, California, this 28<sup>th</sup> day of  
September, 1976.

 President  
William Sproule  
Vernon Sturgeon  
Flora  
Robert Bateman  
Commissioners

Appendix A CALIFORNIA AND WESTERN STATES AMMONIA Original Page 1  
TRANSPORT, INC.  
(a California corporation)

California and Western States Ammonia Transport, 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 trailers between all points and places in the State of California, subject to the following restrictions:

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.

Whenever California and Western States Ammonia Transport, Inc., engages other carriers for the transportation of property of California and Western States Ammonia Transport, Inc. or Bulk Transportation or customers or suppliers of said corporations, California and Western States Ammonia Transport, Inc., shall not pay such other carriers rates and charges less than the rates and charges published in California and Western States Ammonia Transport, Inc.'s tariffs on file with this Commission.

(END OF APPENDIX A)

Issued by California Public Utilities Commission.

Decision 86440, Application No. 56630.