

ORIGINAL

Decision No. 88846 MAY 16 1978

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application )  
of Bennie R. Reagen and Dennis E.)  
Reynolds, a partnership dba )  
Reagen's Vacuum Truck Service to )  
transfer a petroleum irregular )  
route certificate to Reagen's )  
Vacuum Truck Service, Inc., a )  
California corporation. )

Application No. 57867  
(Filed February 10, 1978)

O P I N I O N

Bennie R. Reagen and Dennis E. Reynolds, co-partners, doing business as Reagen's Vacuum Truck Service (partnership), who wish to conduct the operation under a corporate form of business, request authority to transfer a petroleum irregular route carrier certificate of public convenience and necessity and certain related assets to Reagen's Vacuum Truck Service, Inc., a California corporation, (purchaser), and the latter seeks authority to issue 1,315 shares of \$100 par value stock for an aggregate sum of \$131,500.

The partnership operates as a petroleum irregular route carrier in California pursuant to authority originally granted by Decision 51645 dated July 5, 1955 in Application 36832, and acquired by the partners pursuant to Decision 83432 dated September 11, 1974 in Application 55027. The certificate applies on the transportation of petroleum and petroleum products in vacuum-type and pump-type tank trucks or tank trailers between all points and places within a radius of 50 statute miles from Newhall, California. Purchaser also operates pursuant to a radial highway common carrier permit under Cal. T-121,785.

In Exhibit C attached to the application, the partnership reports a total operating revenue and net income of \$323,919 and \$44,708, respectively, for the first five months ending May 31, 1977. The May 31, 1977 balance sheet of the partnership is summarized as follows:

<u>Assets</u>	<u>Amount</u>
Current assets	\$ 77,644.36
Equipment and improvements at cost less accumulated depreciation	235,041.47
Other assets	<u>25,836.40</u>
Total	<u>\$338,522.23</u>

<u>Liabilities &amp; Capital</u>	<u>Amount</u>
Current liabilities	\$113,139.26
Long term liabilities including equipment obligations	89,260.72
Partnership investment	<u>136,122.25</u>
Total	<u>\$338,522.23</u>

The partnership proposes to transfer the petroleum irregular route carrier certificate and other related assets to Reagen's Vacuum Truck Service, Inc., a California corporation, in exchange for 1,315 shares of the latter's \$100 per share par value stock. A balance sheet for the corporation dated November 30, 1977, giving effect to the transaction appears in Exhibit C and is summarized as follows:

<u>Assets</u>	<u>Amount</u>
Current assets	\$140,980.81
Equipment and improvements at cost less accumulated depreciation	282,395.99
Other assets	<u>7,379.38</u>
Total	<u>\$431,756.18</u>

<u>Liabilities &amp; Capital</u>	<u>Amount</u>
Current liabilities	\$174,695.56
Long term liabilities including equipment obligations	100,510.04
Stockholders equity	<u>156,550.58</u>
Total	<u>\$431,756.18</u>

The verified application shows that Bennie R. Reagen, the majority stockholder - 934 shares, has been engaged in vacuum truck operation for many years. Dennis E. Reynolds, the minority stockholder - 381 shares, has likewise had considerable experience in this type of transportation.

Applicants have petitioned for relief from the provisions of Rule 37 of the Commission's Rules of Practice and Procedure which requires wide dissemination of the application. Applicants certify that a copy of the application has been forwarded to the California Trucking Association. Notice of the filing of the application appeared in the Commission's Daily Calendar of February 15, 1978. No protests to the application have been received.

After consideration, the Commission finds:

1. Relief from the provisions of Rule 37 of the Commission's Rules of Practice and Procedure should be granted.
2. The proposed transfer would not be adverse to the public interest.
3. The proposed stock issue is for a proper purpose.
4. The money, property or labor to be procured or paid for by the issuance of stock 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.

On the basis of the foregoing findings, we conclude that the application should be granted. 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

Bennie R. Reagen and Dennis E. Reynolds, co-partners, doing business as Reagen's Vacuum Truck Service, and the issuance of a certificate in appendix form to Reagen's Vacuum Truck Service, Inc.

Reagen's Vacuum Truck Service, 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 for the grant of such rights. Aside from their purely permissive aspects, such rights extend to the holder a full or partial monopoly of a class of business. This monopoly feature may be cancelled at any time by the State, which is not in any respect limited as to the number of rights which may be given.

The action taken herein shall not be construed as a finding of the value of the rights and properties authorized to be transferred or of the stock authorized to be issued.

O R D E R

IT IS ORDERED that:

1. Bennie R. Reagen and Dennis E. Reynolds, co-partners, doing business as Reagen's Vacuum Truck Service, may sell and transfer the operative rights referred to in the application to Reagen's Vacuum Truck Service, Inc. This authorization shall expire if not exercised by December 31, 1978, or within such additional time as may be authorized by the Commission.
2. Reagen's Vacuum Truck Service, Inc., on or after the effective date hereof and on or before December 31, 1978, may issue not exceeding 1,315 shares of \$100 par value stock in exchange for assets totaling \$131,500.
3. Purchaser shall file with the Commission the report required by General Order 24-B, which general order, insofar as applicable, is hereby made a part of this order.
4. Within thirty days after the transfer, purchaser shall file with the Commission written acceptance of the petroleum irregular route carrier certificate of public convenience and necessity and a true copy of the bill of sale or other instrument of transfer.

5. 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.

6. In the event the transfer authorized in paragraph 1 is completed, effective concurrently with the effective date of the tariff filings required by paragraph 5, a certificate of public convenience and necessity is granted to Reagen's Vacuum Truck Service, Inc. 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 of this decision.

7. The certificate of public convenience and necessity granted by Decision 83432 is revoked effective concurrently with the effective date of the tariff filings required by paragraph 5.

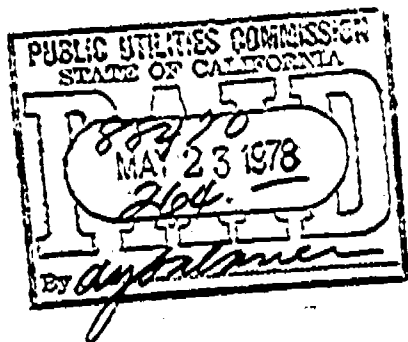
8. Purchaser shall comply with the safety rules administered by the California Highway Patrol and the insurance requirements of the Commission's General Order 100-Series.

9. 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.

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

11. The authority granted by this order to issue stock will become effective when Reagen's Vacuum Truck Service, Inc. has paid the fee prescribed by Section 1904.1 of the Public Utilities Code, which fee is \$264. In all other respects, the effective date of this order is thirty days after the date hereof.

Dated at San Francisco, California, this 16th  
day of MAY, 1978.



Robert Batwinich  
President  
William Lyons Jr.  
Virginia L. Sturgeon  
Richard D. Conally  
Clare T. DeBrial  
Commissioners

Reagen's Vacuum Truck Service, 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 petroleum and petroleum products in vacuum-type and pump-type tank trucks or tank trailers.

Between all points and places located within a radius of 50 statute miles from Newhall, 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. 88846, Application No. 57867.