

89032 JUN 27 1978

Decision No. _____

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application)
of:)

PROJECT EQUITIES, INC., a Califor-)
nia corporation, to merge into)
itself PULMOR TANK LINES, INC., a)
California corporation and trans-)
fer certificate of public conven-)
ience and necessity to operate as)
a petroleum irregular route)
carrier in the State of California)

Application No. 57926
(Filed March 13, 1978)

O P I N I O N

Project Equities, Inc. (Project), a California corporation, seeks authority to merge and transfer into itself its wholly owned subsidiary, Pulmor Tank Lines (Pulmor), a California corporation, which holds a petroleum irregular route carrier certificate of public convenience and necessity. The certificate was granted by Decision 87814 dated September 7, 1977 in Application 57292.

Pulmor desires to dissolve its corporate status by merging into Project and becoming a division thereof. Project has the necessary experienced management and sufficient financial and equipment resources to carry on an adequate and efficient service to the public at existing rate levels. It is alleged that the proposed transaction will not have an adverse effect on either the public generally or upon other carriers. Project's balance sheet of December 31, 1976 shows a net worth of \$3,218,524.

Notice of the filing of the application appeared in the Commission's Daily Calendar of March 16, 1978. No protests have been received. In the past Project has indicated that it was affiliated with several business enterprises by reason of common ownership. The appropriate alter ego restriction will be included on the certificate to reflect these affiliations.

After consideration the Commission finds that:

1. The proposed merger and transfer would not be adverse to the public interest.

2. The applicants should be granted a deviation from the Commission's Rules of Practice and Procedure which require wide dissemination of the application.

The Commission concludes that the application should be granted as set forth in the ensuing order. A public hearing is not necessary. The order which follows will provide for, in the event the merger and transfer are completed, the revocation of the certificate presently held by Pulmor Tank Lines, Inc., and the issuance of an in-lieu certificate in appendix form to Project Equities, Inc., a California corporation.

Project Equities, Inc. is placed on notice that operating 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 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

1. Pulmor Tank Lines, Inc., a California corporation, may merge into, and transfer the operative rights referred to in the application, to Project Equities, Inc., a California corporation. This authorization shall expire if not exercised by December 31, 1978, or within such additional time as may be authorized by the Commission.

2. Within thirty days of the transfer, Project shall file with the Commission a written acceptance of the certificate and a true copy of the merger agreement or other instrument of transfer.

3. Project shall amend or reissue the tariffs on file with the Commission, naming rates and rules governing the petroleum irregular route 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 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 Project Equities, Inc., a California 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 87814, is revoked effective concurrently with the effective date of the tariff filings required by paragraph 3.

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

9. The applicants are granted a deviation from the Commission's Rules of Practice and Procedure to the extent indicated in Finding 2 of this decision.

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

Dated at San Francisco, California, this 27th day of JUNE, 1978.

President
William Lyons Jr.
Vernon L. Sturgeon
Richard R. Howell
Clair L. Deitch
Commissioners

Commissioner Robert Batinevich, being necessarily absent, did not participate in the disposition of this proceeding.

Project Equities, 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 tank trucks and tank trailers between all points and places in the State of California.

RESTRICTIONS:

Whenever Project Equities, Inc., engages other carriers for the transportation of property of Project Equities, Inc., Lerner Oil Co., Inc., Lavic Stone, a corporation, Pauler Inc., Fuel Supply Co., Inc., or Deloil, Inc., or subsidiaries or affiliates thereof, or customers or suppliers of said corporations, Project Equities, Inc. shall not pay such other carriers rates and charges less than the rates and charges published in Project Equities, Inc.'s tariffs on file with this Commission.

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)

Issued by California Public Utilities Commission.

Decision 89032, Application 57926.