

Decision No. 42849

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
G. A. BRINKMAN, dba POMONA TANK LINES) Application No. 29840
for certificate to transport petroleum,)
etc., in California.)

In the Matter of the Application of)
L. P. G. TRANSPORTATION CORP.) Application No. 29841
for certificate to transport petroleum,)
etc., in California.)

Phil Jacobson for applicants;
J. G. Rearden for Union Oil Company, interested party.

O P I N I O N

There are two applicants herein, each seeking a certificate of public convenience and necessity to operate as a highway common carrier, as defined in Section 2 3/4 of the Public Utilities Act of the State of California, for the transportation of liquid petroleum products in bulk, in tank trucks and trailers.

Public hearings were held at Los Angeles on December 27, 1948, before Commissioner Huls and Examiner Syphers. On that date evidence was adduced and the matters were submitted.

G. A. Brinkman, doing business as Pomona Tank Lines, is an individual who has been engaged in the business of transporting liquid petroleum products in tanks, trucks, and trailers, since 1936. He does not transport any liquefied petroleum gases and maintains no insulated equipment for the transportation of

so-called hot oils. However, he does own and operate a fleet consisting of three trucks, three trailers, one tractor, and one semi-trailer. The principal office and place of business of the company is at 2186 East Phillips Street, Pomona, California, where there is maintained a complete shop, yard, and storage shed facilities.

The application originally requested authority to conduct operations throughout the State of California; however, at the hearing, this application was amended so as to eliminate the northern part of the state.

From testimony presented at the hearing, it appears that applicant is willing and able to conduct the proposed operations. This is evidenced not only by the terminal facilities and equipment previously mentioned, but also from an analysis of the financial statements and operating testimony presented at the hearing.

L. P. G. Transportation Corp. is a California corporation having its principal place of business at 3440 East South Street, Paramount, California. There it maintains an office, shop, yard, and storage place. The corporation owns and operates five trucks, one tractor, two semi-trailers, and five full trailers. All of this equipment is devoted exclusively to the transportation of liquefied petroleum gases.

Originally, this applicant requested authority to transport between all points in the State of California; however, at the hearing the application was amended to exclude the northern part of the state.

From an analysis of the financial statements and the operating testimony presented, it appears that this applicant

likewise is willing and able to conduct the proposed operations.

Concerning the public convenience and necessity of both of these proposed operations, we here point out that certain of the public witnesses' testimony presented in Application No. 29416, Lang Transportation Co., et al, was incorporated in this record. Accordingly, we merely refer to Decision No. 42623, dated March 15, 1949, issued in the prior application.

The nature of applicant's hauling, the commodities handled, the need for off route authority to points within 50 miles of the highways, the methods of handling, and the compensation received, all are similar to situations discussed in Decision No. 42623, which decision in this respect becomes controlling in this matter.

Upon this record, therefore, the applications will be granted to the extent of the showing made. Each applicant presented a statement of points of origin and destination which it has served under its existing permits and these statements are relied upon herein to the extent that they indicate the public demand for applicants' operations in the past. Also, each applicant submitted a statement of proposed rates which contain rates identical with those adopted by each of the applicants in the Lang case and designated therein as Exhibit 265.

From a complete analysis of all the testimony herein presented, we hereby find that public convenience and necessity require the institution of services as highway common carriers for the transportation of petroleum products in bulk, as set out in the ensuing order.

Applicants are, and each is, hereby placed upon notice that operative rights, as such, do not constitute a class of

property which may be 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 granting of such rights. Aside from their purely permissive aspect, they extend to the holder a full or partial monopoly of a class of business over a particular route. This monopoly feature may be changed or destroyed at any time by the State, which is not, in any respect, limited to the number of rights which may be given.

O R D E R

Applications as above entitled having been filed, public hearings having been held thereon, the matters having been submitted, the Commission being fully advised in the premises and hereby finding that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of petroleum products, in bulk, except liquefied petroleum gases and any other products requiring pressurized tanks, and except liquid asphalt and hot road oils and any other petroleum products requiring insulated tanks, be, and it hereby is, granted to G. A. Brinkman, doing business as Pomona Tank Lines, along the routes and between the points hereinafter specified, with the right to make lateral departures therefrom within a radius of 50 miles of said routes:

1. U. S. 101 and U. S. 101 By-Pass between San Francisco and the California-Mexico Line;
2. U. S. 99 between Sacramento and the California-Mexico Line;

3. U. S. 40 between San Francisco and the Nevada-California State Line;
4. U. S. 50 between Sacramento and the California-Nevada State Line;
5. U. S. 395 between the California-Nevada State Line at Topaz Lake and Junction U. S. 66;
6. U. S. 66 between Los Angeles and Needles;
7. U. S. 60 between Los Angeles and the California-Arizona State Line;
8. U. S. 91 and 466 between Barstow and Nevada-California State Line;
9. State Highway 127 between Baker and Nevada-California State Line;
10. U. S. 80 from San Diego to the California-Arizona State Line.

(2) That a certificate of public convenience and necessity authorizing the establishment and operation of a service as a highway common carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of liquefied petroleum gases in all of their forms, including butane, propane, isopropyl, normal butane, normal gasoline, and casinghead gasoline, be, and it hereby is, granted to L. P. G. Transportation Corp., along the routes and between the points hereinafter specified, with the right to make lateral departures therefrom within a radius of 50 miles of said routes:

1. U. S. 101 and U. S. 101 By-Pass between San Francisco and the California-Mexico Line;
2. U. S. 99 between Sacramento and the California-Mexico Line;
3. U. S. 40 between San Francisco and the Nevada-California State Line;
4. U. S. 50 between Sacramento and the California-Nevada State Line;
5. U. S. 395 between the California-Nevada State Line at Topaz Lake and Junction U. S. 66;
6. U. S. 66 between Los Angeles and Needles;
7. U. S. 60 between Los Angeles and the California-Arizona State Line;
8. U. S. 91 and 466 between Barstow and Nevada-California State Line;
9. State Highway 127 between Baker and Nevada-California State Line;
10. U. S. 80 from San Diego to the California-Arizona State Line.

(3) That in providing service pursuant to the certificates herein granted, there shall be compliance with the following service regulations:

- (a) Applicants shall file a written acceptance of the certificates herein granted within a period of not to exceed thirty (30) days after the effective date hereof.
- (b) Applicants shall, within sixty (60) days after the date hereof, and upon not less than five (5) days' notice to the Commission and the public, establish the service herein authorized and comply with the provisions of General Order No. 80 and Part IV of General Order No. 93-A, by filing, in triplicate, and concurrently making effective, tariffs and time schedules satisfactory to the Commission.

In all other respects Applications Nos. 29840 and 29841 shall be denied.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 10th day of May, 1949.

R. E. Johnson
Justice F. Calver
James T. Swell
Harold A. Hill
Samuel Potter
COMMISSIONERS