

Decision No. 42851

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
 JOSEPH M. DEVERE, doing business as)
 PETROLEUM TRANSPORTATION CO., for a)
 certificate of public convenience and)
 necessity to operate as a highway)
 common carrier for the transportation) Application No. 29928
 of liquefied petroleum and petroleum)
 products other than asphalt, road oils,)
 and liquefied petroleum gases, in bulk,)
 in tank trucks, in tank trailers, and)
 tank semitrailers, over described routes)
 and to all points and places laterally)
 within fifty miles thereof.)

Earl Glen Whitehead for applicant. Gordon, Knapp and Hennessy, by Donald Murchison, for Pacific Freight Lines, interested party.

O P I N I O N

Petroleum Transportation Company, applicant herein, seeks 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.

A public hearing was held in Los Angeles on February 7, 1949, before Commissioner Huls and Examiner Syphers.

Joseph M. Devere is an individual doing business as Petroleum Transportation Company, and has been engaged in the business of hauling petroleum products, for hire, since 1932. He does

not transport liquefied petroleum gases nor products requiring pressurized equipment, and does not transport asphalts, hot road oils, nor other products requiring insulated equipment. The principal office and place of business is 3970 Medford Street, Los Angeles, California.

Applicant owns and operates three trucks and three trailers, each vehicle being equipped with a tank for the transportation of refined petroleum products.

A financial statement was submitted at the hearing, as well as a description of the equipment operated.

From the testimony presented it appears that applicant is willing and able to conduct the proposed operations.

Concerning the public convenience and necessity of the proposed operation, there was presented at the hearing testimony by the Assistant Traffic Manager of the Tidewater Associated Oil Company, and also testimony by the Vice President of the Pathfinder Petroleum Company. Likewise, the public-witness testimony presented in Application No. 29416, Lang Transportation Company, et al, was incorporated in this hearing so far as it is applicable.

This applicant presented a statement of points of origin and destination to and from which it has hauled, and this statement is relied upon herein to the extent that it indicates a public demand for applicant's operations in the past. Furthermore, applicant adopted the rate proposal submitted in the Lang case, supra, and designated therein as Exhibit 265.

The facts in this case place this matter squarely under the decision of the Commission in the Lang case, supra, and the principles therein discussed become applicable to this matter.

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

Joseph M. Devere is hereby placed upon 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, 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

Application as above entitled having been filed, a public hearing having been held thereon, the matter having been submitted, the Commission being fully advised in the premises and hereby finding that public convenience and necessity so require,

IT IS ORDERED that a certificate of public convenience and necessity, authorizing the establishment and operation of a highway common carrier service 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 asphalts and hot

road oils, and any other petroleum products requiring insulated tanks, be, and it hereby is, granted to Joseph M. Devere, doing business as Petroleum Transportation Company, along the routes and between the points hereinafter specified:

1. U. S. 101 and U. S. 101 By-Pass between Paso Robles and the California-Mexico Line;
2. U. S. 99 between Madera and the California-Mexico Line;
3. U. S. 395 between Bishop and Junction of U. S. 66;
4. U. S. 66 between Los Angeles and Needles;
5. U. S. 60 between Los Angeles and the California-Arizona State Line;
6. U. S. 91 and 466 between Barstow and the California-Nevada State Line;
7. U. S. 127 between Baker and the Nevada-California State Line;
8. U. S. 80 between San Diego and the California-Arizona State Line.

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

- (a) Applicant shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days after the effective date hereof.
- (b) Applicant shall, within sixty (60) days after the effective 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 Application No. 29928 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. T. Dutton
James J. Casper
W. A. Powell
Harold H. Kula
Samuel Potter
COMMISSIONERS