

ORIGINAL

Decision No. 42505

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
JOHN W. DOUDELL, an individual, for)
a certificate of public convenience')
and necessity to operate as a high-)
way common carrier for the trans-)
portation of petroleum products, in)
bulk, except liquefied petroleum)
gases, and except liquid asphalt)
and hot road oils, by motor vehicle)
tank transport equipment, over)
described routes.)

Application No. 30412

Edward M. Berol, for applicant.

O P I N I O N

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, except liquefied petroleum gases, and except liquid asphalts and hot road oils, over specified routes throughout the State of California.

A public hearing was held at San Francisco, on October 17, 1949, before Examiner Syphers, on which date evidence was adduced and the matter submitted.

John W. Doudell is an individual having his principal place of business at 834 Lenzen Avenue, in San Jose, California. This individual is engaged in the business of transporting liquid

petroleum products in tank trucks and trailers and has been so engaged for many years. Applicant has transported liquid petroleum products of all types, with the exception of liquefied petroleum gases. However, at the hearing, applicant specifically limited his application so as to exclude liquid asphalts and hot road oils. This exclusion was made, according to the statement of applicant's counsel, because of the ruling of this Commission in Decision No. 42623, dated March 15, 1949, on Application No. 29416, et al, wherein it was found that the transportation of liquid asphalts, hot road oils, and petroleum products requiring insulated tanks, as such transportation was described in that proceeding, "is not highway common carriage as defined in Section 2 3/4 of the Public Utilities Act."

This applicant owns and operates four tractors, two trucks, three semitrailers, and three full trailers. Exhibit 1, introduced at the hearing, contains the financial statement of applicant as of August 31, 1949, and Exhibit 2 contains the income and expense statement from January 1, 1949, to August 31, 1949.

A consideration of these exhibits, together with the operative testimony presented at the hearing, leads to the conclusion that this applicant is willing and able to perform the proposed service, and we now so find.

The application requests authority to transport petroleum products over the principal highways throughout the State of California and off-route points within fifty miles of these highways. An examination of the evidence submitted at the hearing, and in particular Exhibits 4 and 5, shows that applicant has, in fact, transported shipments throughout the State of California.

From the evidence previously adduced in Application No. 29416, supra, there was incorporated into this record the testimony of Mr. C. G. Anthony, Exhibits 1 to 8, which Mr. Anthony presented, and the testimony of various traffic managers and representatives of the oil companies for which this applicant performs transportation.

Upon this record, we hereby find that public convenience and necessity require the institution of highway common carrier service for the transportation of petroleum products, in bulk, as set out in the ensuing order.

John W. Doudell, an individual, 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, 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:

(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 liquid petroleum gases and any other petroleum 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 John W. Doudell, an individual, between points and places in California and upon and along the following described routes, including all intermediate points, with the right to make lateral departures therefrom within a radius of fifty miles of said routes:

1. U. S. 101 and U. S. 101 By-Pass between Oregon-California State Line and California-Mexico Line;
2. U. S. 99, 99-E, and 99-W between Oregon-California State Line and the Mexican Border;
3. U. S. 299 between Redding and Alturas;
4. U. S. 395 between the Oregon-California State Line and the California-Nevada State Line, via Alturas and Johnstonville; State Highway 36 between Junction 99-E near Red Bluff, California, and Junction U. S. 395 at Johnstonville;
5. State Highway 20 between Marysville, California, and Junction U. S. 40;
6. U. S. 40 between San Francisco and California-Nevada State Line;
7. U. S. 50 between Sacramento, California, and California-Nevada State Line;
8. U. S. 395 between California-Nevada State Line at Topaz Lake and Junction U. S. 66;
9. U. S. 66 between Los Angeles and Needles;
10. U. S. 60 between Los Angeles, California, and California-Arizona State Line;
11. U. S. 91 and 466 between Barstow and Nevada-California State Line;
12. State Highway 127 between Baker and Nevada-California State Line;
13. 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.

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

Dated at San Francisco, California, this 7th day of November, 1949.

R. E. Zimmerman
Justice F. Casper
Harold Lowell
Harold Kule
Herbert Potter
COMMISSIONERS