

Decision No. 44227

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the application of )  
 ALVIN J. CERUTTI and J. B. DAMIANI, )  
 co-partners, doing business under )  
 the firm name and style of CERUTTI & )  
 DAMIANI SERVICE for a Certificate of )  
 Public Convenience and Necessity as a ) Application No. 31150  
 Petroleum Irregular Route Carrier of )  
 Petroleum and Petroleum Products in )  
 bulk in tank trucks and trailers, between )  
 all points in the State of California, )  
 by reason of operations conducted )  
 on and after September 1, 1949, )  
 Under Radial Highway Common Carrier )  
 Permit issued by the Public Utilities )  
 Commission of the State of California. )

O P I N I O N

Applicants herein request a certificate of public convenience and necessity to operate as petroleum irregular route carriers throughout the State for the transportation of petroleum and petroleum products in tank trucks and tank trailers, pursuant to the provisions of Section 50-3/4 of the Public Utilities Act, as amended by Statutes 1949, Chapter 1399.

The amendment referred to provides, among other things, that in the event a petroleum irregular route carrier was on September 1, 1949, and thereafter operating under a permit as a radial highway common carrier, and shall file an application within 180 days after the amendment takes effect, the Commission shall issue a certificate of public convenience and necessity without further proceedings, and such certificate shall authorize the carrier to engage in such operations as it was authorized to conduct on September 1, 1949.

Applicants allege in their verified application that on September 1, 1949, and continuously thereafter they were petroleum irregular route carriers operating under a permit issued by this Commission as radial highway common carriers. The application was filed within 180 days after said amendment became effective.

A public hearing does not appear to be necessary.

Upon the facts set forth hereinabove, we find that public convenience and necessity require that Alvin J. Cerutti and J. B. Damiani, doing business as Cerutti and Damiani Service, establish and operate services as a petroleum irregular route carrier to the extent set forth in the ensuing order.

Alvin J. Cerutti and J. B. Damiani are 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 and the Commission having found that public convenience and necessity so require,

IT IS ORDERED:

(1) That a certificate of public convenience and necessity be and it is hereby granted to Alvin J. Cerutti and J. B. Damiani, doing business as Cerutti and Damiani Service, authorizing the

establishment and operation of a service as a petroleum irregular route carrier, as defined in Section 2-3/4 of the Public Utilities Act, for the transportation of petroleum and petroleum products in tank trucks and tank trailers between all points and places in the State of California.

(2) That in providing service pursuant to the certificate herein granted, applicants shall comply with and observe the following service regulations:

- a. Applicants shall file a written acceptance of the certificate herein granted within a period of not to exceed thirty (30) days from the effective date hereof.
- b. Within sixty (60) days from the effective date hereof and on not less than five (5) days' notice to the Commission and the public, applicants shall 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, appropriate tariffs and time tables.

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

Dated at San Francisco, California, this 23rd day of May, 1950.

R. E. Anderson  
Justin F. Garner  
Wm. F. Hancock  
Harold P. Huber

COMMISSIONERS

Commissioner.....Kenneth Rottor....., being necessarily absent, did not participate in the disposition of this proceeding.