

ORIGINAL

Decision No. 44367

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
CLARK E. SEARGEANT, AUDREY L. SEARGEANT,)
and ROGER E. SEARGEANT, co-partners)
doing business as SEARGEANT TRANS-)
PORTATION COMPANY, for a certificate)
of public convenience and necessity)
as a petroleum irregular route carrier.)

Application No. 31072

O P I N I O N

Applicants herein request a certificate of public convenience and necessity to operate as a petroleum irregular route carrier 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 a petroleum irregular route carrier operating under a permit issued by

this Commission as a radial highway common carrier. The application was filed within 180 days after said amendment became effective.

By Decision No. 42623, dated March 15, 1949, these applicants were granted a certificate as a highway common carrier for the transportation of petroleum products, in bulk, except liquefied 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, upon and along the following described routes, including all intermediate points, with the right to make lateral departures therefrom within a radius of fifty (50) miles of said routes:

1. U. S. 101 and U. S. 101 By-Pass between San Francisco and Los Angeles;
2. U. S. 99 between Sacramento and Los Angeles;
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 Barstow;
7. U. S. 91 and 466 between Barstow and Nevada-California State Line;
8. U. S. 127 between Baker and Nevada-California State Line.

A public hearing does not appear to be necessary.

Upon the facts set forth hereinabove, we find that public convenience and necessity require that Clark E. Seargeant, Audrey L. Seargeant and Roger E. Seargeant, copartners, doing business as Seargeant Transportation Company, establish and operate services as a petroleum irregular route carrier to the extent set forth in the ensuing order.

Clark E. Seargeant, Audrey L. Seargeant and Roger E. Seargeant, copartners, doing business as Seargeant Transportation Company, are 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

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 Clark E. Seargeant, Audrey L. Seargeant and Roger E. Seargeant, copartners, doing business as Seargeant Transportation Company, 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 (a) liquefied petroleum gases and any other petroleum products requiring pressurized tanks and liquid asphalts and hot road oils and any other petroleum products requiring insulated tanks, between all points and places within

the State of California, and (b) all other petroleum and petroleum products in tank trucks and tank trailers between all points and places within the State of California, except the points and places now authorized to be served by them as a highway common carrier pursuant to Decision No. 42623, dated March 15, 1949.

(2) That in providing service pursuant to the certificate herein granted, applicant shall comply with and observe 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 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, applicant 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 20th day of June, 1950.

R. Z. Dumas
James H. Fuller
Harold B. Keli
Herbert W. Patten
 COMMISSIONERS