

Decision No. 44370

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
EMPIRE TRANSPORTATION COMPANY, a cor-)
poration, for a certificate of public)
convenience to operate an automobile)
freight service as a petroleum irregu-)
lar route carrier, 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.)

Application No. 31058

O P I N I O N

✓ Applicant herein requests 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.

Applicant alleges in its verified application that on September 1, 1949, and continuously thereafter it was 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, this applicant was granted a certificate as a highway common carrier for the transportation of petroleum products, in bulk, 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, subject to the following restriction:

Liquefied petroleum gases and other petroleum products requiring pressurized equipment may be hauled only between Bakersfield and points within fifty (50) miles thereof, on the one hand, and on the other San Francisco and points within fifty (50) miles thereof, via U. S. 99 and U. S. 50.

1. U. S. 101 and U. S. 101 By-Pass between Oregon-California State Line and Los Angeles;
2. U. S. 99, 99-E, and 99-W between Oregon-California State Line and Los Angeles;
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;
5. State Highway 36 between Junction 99-E near Red Bluff, California, and Junction U. S. 395 at Johnstonville;
6. State Highway 20 between Marysville, California, and Junction U. S. 40;
7. U. S. 40 between San Francisco and California-Nevada State Line;
8. U. S. 50 between Sacramento, California, and California-Nevada State Line;
9. U. S. 395 between California-Nevada State Line at Topaz Lake and Junction U. S. 66;
10. U. S. 66 between Los Angeles, California, and Barstow;

11. U. S. 91 and 466 between Barstow and Nevada-California State Line;
12. State Highway 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 Empire Transportation Company, a corporation, establish and operate services as a petroleum irregular route carrier to the extent set forth in the ensuing order.

Empire Transportation Company, a corporation, 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

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 Empire Transportation Company, a corporation, 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 between all points and places in the State of California, except between Bakersfield and points within fifty (50) miles thereof, on the one hand, and on the other San Francisco and points within fifty (50) miles thereof, when transported over U. S. 99 and U. S. 50, and (b) 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 (c) 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 it 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. J. Anderson

Robert J. Hill

Harold A. Kula

Kenneth P. Potter
COMMISSIONERS