

Decision No. 44372

ORIGINAL

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of)
AMERICAN TRANSFER CO., a corporation,)
for a certificate of public convenience) Application No. 31051
and necessity as a petroleum irregular)
route carrier.)

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. 42866, dated May 10, 1949, this applicant was granted a certificate as a highway common carrier for the transportation of petroleum products, in bulk, except liquefied petroleum gases and any other products requiring pressurized tanks, and except liquid asphalt 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 California-Oregon State Line and Santa Barbara;
2. U. S. 99, 99-E, and 99-W between California-Oregon State Line and Bakersfield;
3. U. S. 395 between California-Oregon State Line and the California-Nevada State Line via Alturas and Johnstonville;
4. State Highway 36 between Junction 99-E near Red Bluff and Junction 395 at Johnstonville;
5. State Highway 20 between Marysville and Junction U. S. 40;
6. U. S. 40 between San Francisco and California-Nevada State Line;
7. U. S. 50 between Sacramento and California-Nevada State Line;
8. U. S. 395 between California-Nevada State Line at Topaz Lake and Lone Pine.

A public hearing does not appear to be necessary.

Upon the facts set forth hereinabove, we find that public convenience and necessity require that American Transfer Co., a corporation, establish and operate services as a petroleum irregular route carrier to the extent set forth in the ensuing order.

American Transfer Co., 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 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 American Transfer Co., 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, and liquid asphalts and hot road oils and 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 in 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. 42866, dated May 10, 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 after the effective date hereof.
- b. Within sixty (60) days after 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.

W. B. Anderson

James H. Miller
Harold H. Kila

Frederick Pott
COMMISSIONERS