

**ORIGINAL**Decision No. 44471

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )  
 THEODORE GIFFORD PENNINGTON for a )  
 certificate of public convenience )  
 and necessity to operate an automo- )  
 bile freight service as a petroleum )  
 irregular 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 Com- )  
 mission. )

Application No. 31163

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 his verified application that, on September 1, 1949, and continuously thereafter he 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.

A public hearing does not appear to be necessary.

Upon the facts set forth hereinabove, we find that public convenience and necessity require that Theodore Gifford Pennington, an individual, establish and operate services as a petroleum irregular route carrier to the extent set forth in the ensuing order.

Theodore Gifford Pennington 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 hereby is, granted to Theodore Gifford Pennington, 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, 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 27<sup>th</sup> day of June, 1950.

R. Z. Anderson

Robert H. Hill

Harold K. Hill

COMMISSIONERS