

ORIGINAL

Decision No. 44597

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of L. P. EELES, doing business as MALCO TRANSPORTATION COMPANY, for a certificate of public convenience and necessity to operate as a petroleum irregular route carrier, for the transportation of petroleum and petroleum products in bulk, in tank trucks and trailers, over irregular routes, and within described areas, 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.

) Application No. 31255

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.

By Decision No. 42623, dated March 15, 1949, as amended by Decision No. 43049, dated June 28, 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 petroleum 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 San Francisco and the California-Mexico Line;
2. U. S. 99 between Sacramento and the California-Mexico Line;
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 Needles;
7. U. S. 60 between Los Angeles and the California-Arizona State Line;
8. U. S. 91 and 466 between Barstow and Nevada-California State Line;

9. State Highway 127 between Baker and Nevada-California State Line;
10. U. S. Highway 80 between San Diego and the California-Arizona border.

By Decision No. 44557, dated July 18, 1950, this applicant was granted a further certificate as a highway common carrier for the transportation of natural gasoline in pressurized tanks between Bakersfield and points within twenty-five (25) miles thereof, on the one hand, and on the other Los Angeles and points within twenty-five (25) miles thereof, subject to the following condition:

The service herein authorized shall be limited to the hauling of natural gasoline in pressurized tanks to absorption plants or refineries.

The foregoing service was authorized over the following route:

U. S. Highway 99, including all intermediate points, and off-route points within a radius of twenty-five (25) miles thereof.

A public hearing does not appear to be necessary.

Upon the facts set forth hereinabove, we find that public convenience and necessity require that L. P. Eeles, doing business as Malco Transportation Company, establish and operate service as a petroleum irregular route carrier to the extent set forth in the ensuing order.

L. P. Eeles, doing business as Malco Transportation Company, 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 L. P. Eeles, doing business as Malco 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 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 him as a highway common carrier pursuant to Decision No. 42623, dated March 15, 1949, as amended by Decision No. 43049, dated June 28, 1949, and Decision No. 44557, dated July 18, 1950.

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

- (a) Within thirty (30) days after the effective date hereof, applicant shall file a written acceptance of the certificate herein granted.

- (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 Los Angeles, California, this 1st day of August, 1950.

Justice F. Brewer
James H. Lowell
Harold A. Kula
Herbert H. Potter
COMMISSIONERS