

**ORIGINAL**Decision No. 44723

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

In the Matter of the Application of )	
EDWARD P. LEMEUR, ED LEMEUR )	
TRANSPORTATION CO., for a certificate )	Application No. 31373
of public convenience and necessity )	As Amended.
to operate as an irregular route )	
petroleum carrier. )	

Edward P. LEMEUR in propria persona.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, serving Santa Margarita, Fresno, and Bishop, and all points south and east thereof, for the transportation of petroleum and petroleum products in tank trucks or tank trailers, over any public highways, pursuant to the provisions of Section 50-3/4 of the Public Utilities Act, as amended by Statutes 1949, Chapter 1399.

Public hearing on the application was held before Examiner Rowe, in Los Angeles, on August 18, 1950, at which time oral and documentary evidence was adduced and the matter was duly submitted for decision.

Applicant alleges 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 181 days after

said amendment became effective. The Commission records show that Mr. LeMeur's Radial Highway Common Carrier Permit No. 19-35217, and City Carrier Permit No. 19-35671, were revoked on February 14, 1950, because of his failure to keep on deposit continuous adequate insurance. Subsequently, on May 16, 1950, evidence of new insurance coverage was submitted to the Commission.

Under the circumstances, it is the opinion of the Commission that applicant must make a showing of public convenience and necessity before being entitled to the issuance of a certificate authorizing him to operate as a petroleum irregular route carrier.

At the hearing, applicant was granted leave to amend his application so as to include an allegation that the operation he proposed was required by public convenience and necessity. Forty-nine carriers, engaged in operations similar to those proposed by Mr. LeMeur in the southern portion of the state, were notified of the hearing herein, but none appeared as protestants.

Applicant testified that there is a public need for the service he offers throughout the entire state. However, in view of his prayer for authorization to serve the state south of Fresno, the certificate of public convenience to be issued to him will be so limited. Applicant also stated that he had operated this service with modest financial success for approximately four years, and had acquired four satisfactory pieces of equipment. He stressed his opinion that a number of small carriers of petroleum and petroleum products could better serve the public than could a small number of large operators. The Commission finds as a fact that public convenience and necessity require applicant's proposed service.

Edward P. LeMeur, doing business as Ed LeMeur Transportation 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 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. 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, a public hearing having been held, the matter being duly submitted, and the Commission being fully advised in the premises and 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 Edward P. LeMeur, doing business as Ed LeMeur Transportation Co., 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, liquid asphalts, and hot road oils and other petroleum products, in tank trucks or tank trailers over any public highways between all points and places within the State of California, including Santa Margarita, Fresno, and

Bishop, and lying south and east of said cities.

(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 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, tariffs and time schedules satisfactory to the Commission.

The effective date of this order shall be twenty (20) days after the date hereof.

Dated at San Francisco, California, this 29<sup>th</sup> day of August, 1950.

R. E. [Signature]  
Justus J. [Signature]  
Harold P. [Signature]  
Kenneth W. [Signature]  
COMMISSIONERS